

106TH CONGRESS
1ST SESSION

S. 1184

To authorize the Secretary of Agriculture to dispose of land for recreation
or other public purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 1999

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

A BILL

To authorize the Secretary of Agriculture to dispose of land
for recreation or other public 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. SHORT TITLE.**

4 This Act may be cited as the “National Forest Sys-
5 tem Community Purposes Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) communities adjacent to and surrounded by
9 National Forest System land have limited opportuni-

1 ties to acquire land for recreational and other public
2 purposes;

3 (2) in many cases, such recreational and other
4 public purposes are not within the mission of the
5 Forest Service, but would not be inconsistent with
6 land and resource management plans developed for
7 the adjacent national forest;

8 (3) such communities are often unable to ac-
9 quire land for recreational and other public purposes
10 due to the extremely high market value of private
11 land resulting from the predominance of Federal
12 land in the local area; and

13 (4) the national forests and adjacent commu-
14 nities would mutually benefit from a process similar
15 to that available to the Bureau of Land Manage-
16 ment under the Act of June 14, 1926 (commonly
17 known as the “Recreation and Public Purposes
18 Act”) (43 U.S.C. 869 et seq.).

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) HAZARDOUS SUBSTANCE.—The term “haz-
22 ardous substance” has the meaning given the term
23 in section 101 of the Comprehensive Environmental
24 Response, Compensation, and Liability Act (42
25 U.S.C. 9601).

1 (2) PARCEL.—

2 (A) IN GENERAL.—The term “parcel”
3 means a parcel of land under the jurisdiction of
4 the Forest Service that has been withdrawn
5 from the public domain.

6 (B) EXCLUSION.—The term “parcel” does
7 not include land set aside or held for the benefit
8 of Indians.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of Agriculture, acting through the
11 Chief of the Forest Service.

12 **SEC. 4. DISPOSAL OF NATIONAL FOREST SYSTEM LAND**
13 **FOR PUBLIC OR RECREATIONAL PURPOSES.**

14 (a) AUTHORITY.—The Secretary may dispose of Na-
15 tional Forest System land to a State or a political subdivi-
16 sion of a State as provided in this section on the condition
17 that the parcel be used for recreational and other public
18 purposes, as determined by the Secretary.

19 (b) CONDITIONS OF DISPOSAL.—Before any parcel
20 may be disposed of or any application for a transfer of
21 title to or a change in use of a parcel is approved under
22 this section, the Secretary shall determine that—

23 (1) the parcel is to be used for an established
24 or definitely proposed project;

1 (2) the parcel is not of national significance, as
2 determined by the Secretary;

3 (3) the acreage is not more than is reasonably
4 necessary for the proposed use; and

5 (4) in the case of a parcel of more than 640
6 acres, comprehensive land use plans and zoning reg-
7 ulations applicable to the area in which the parcel is
8 located have been adopted by the appropriate State
9 or local authority.

10 (c) PUBLIC PARTICIPATION.—The Secretary shall—

11 (1) provide an opportunity for participation by
12 affected citizens in disposals under this section, in-
13 cluding public hearings or meetings where appro-
14 priate, to provide public comments;

15 (2) hold at least 1 public meeting on any pro-
16 posed disposal of more than 640 acres.

17 (d) PARCELS WITHDRAWN IN AID OF FUNCTIONS OF
18 FEDERAL AND STATE AGENCIES.—If a parcel has been
19 withdrawn in aid of a function of a Federal agency other
20 than the Department of Agriculture or of an agency of
21 a State or political subdivision of a State (including a
22 water district), the Secretary may dispose of the parcel
23 under this section only with the consent of the agency.

24 (e) CONVEYANCES AND LEASES.—

1 (1) CONVEYANCES.—The Secretary may convey
2 a parcel to the State or a political subdivision of the
3 State in which the parcel is located if the proposed
4 use is not inconsistent with applicable land and re-
5 source management plans under the Forest and
6 Rangeland Renewable Resources Planning Act of
7 1974 (16 U.S.C. 1600 et seq.).

8 (2) LEASES.—The Secretary may lease a parcel
9 to the State or a political subdivision of the State in
10 which the parcel is located, at a reasonable annual
11 rental, for a period up to 25 years, and, at the dis-
12 cretion of the Secretary, with a privilege of renewal
13 for a like period, if the proposed use is not incon-
14 sistent with applicable land and resource manage-
15 ment plans under the Forest and Rangeland Renew-
16 able Resources Planning Act of 1974 (16 U.S.C.
17 1600 et seq.).

18 (3) CONSIDERATION.—

19 (A) IN GENERAL.—Except as provided
20 under subparagraph (B), the conveyance or
21 lease of a parcel under this section shall be
22 made at a price to be fixed by the Secretary,
23 consistent with the pricing structure established
24 by the Secretary of the Interior under the Act
25 of June 14, 1926 (43 U.S.C. 869 et seq.).

1 (B) EXCEPTIONS.—A conveyance of a par-
 2 cel for the purpose of a historic monument or
 3 a conveyance or lease of a parcel for rec-
 4 reational purposes under this section shall be
 5 made without monetary consideration.

6 (f) RESERVATION OF MINERAL RIGHTS.—Each con-
 7 veyance or lease under this section shall contain a reserva-
 8 tion to the United States of all mineral deposits in the
 9 parcel conveyed or leased and of the right to mine and
 10 remove the mineral deposits under applicable laws (includ-
 11 ing regulations).

12 (g) USE OF THE LEASED LAND FOR UNAUTHORIZED
 13 PURPOSES.—Each lease under this section shall contain
 14 a provision for termination of the lease on a finding by
 15 the Secretary that—

16 (1) the parcel has not been used by the lessee
 17 as specified in the lease for a period greater than 5
 18 years; or

19 (2) the parcel or any part of the parcel is being
 20 devoted to a use other than that for which the lease
 21 was made.

22 (h) CONDITIONS OF CONVEYANCE; REVERSION FOR
 23 NONCOMPLIANCE.—

24 (1) CONDITIONS OF CONVEYANCE.—

25 (A) TRANSFER OF TITLE.—

1 (i) IN GENERAL.—Except as provided
 2 in clause (ii), title to a parcel conveyed by
 3 the Secretary under this section may not
 4 be transferred by the grantee or a suc-
 5 cessor of the grantee.

6 (ii) EXCEPTION.—With the consent of
 7 the Secretary, title to a parcel may be
 8 transferred to the State or a political sub-
 9 division of the State in which the parcel is
 10 located.

11 (B) USE.—

12 (i) IN GENERAL.—Except as provided
 13 in clause (ii), a grantee or a successor of
 14 the grantee may not change the use speci-
 15 fied in the conveyance of a parcel under
 16 this section to another or additional use.

17 (ii) EXCEPTION.—With the consent of
 18 the Secretary, the use of a parcel may be
 19 changed to another recreational or public
 20 use.

21 (2) REVERSION FOR NONCOMPLIANCE.—If at
 22 any time after a parcel is conveyed by the Secretary,
 23 the grantee or a successor of the grantee, without
 24 the consent of the Secretary, attempts to transfer
 25 title to or control over the parcel to another person

1 or entity or to devote the parcel to a use other than
2 that for which the parcel was conveyed, title to the
3 parcel shall revert to the United States.

4 (i) PRIOR CONVEYANCES.—On application by the
5 State or a political subdivision of the State in which a
6 parcel is located, the Secretary may authorize a transfer
7 of title or a change in use in accordance with subsection
8 (h) with respect to any parcel conveyed under this section
9 or any other law.

10 (j) CESSATION OF EFFECTIVENESS OF REVERTER
11 CLAUSE.—If the Secretary authorizes a transfer of title
12 or a change in use under subsection (i), all reverter provi-
13 sions and other limitations on transfer or use, under this
14 section or any other Act affecting the parcel, shall cease
15 to be in effect 25 years after the Secretary authorizes the
16 transfer or use for a changed or additional purpose.

17 (k) SOLID WASTE DISPOSAL SITES.—

18 (1) CONVEYANCE FOR THE PURPOSES OF SOLID
19 WASTE DISPOSAL.—If the Secretary receives an ap-
20 plication for conveyance of a parcel under this sec-
21 tion for the purpose of solid waste disposal or for
22 another purpose that the Secretary finds may in-
23 clude the disposal, placement, or release of any haz-
24 ardous substance, the Secretary may convey the par-
25 cel subject only to this subsection.

1 (2) INVESTIGATION.—

2 (A) IN GENERAL.—Before any conveyance
3 of a parcel under this subsection, the Secretary
4 shall investigate the parcel to determine wheth-
5 er any hazardous substance is present on the
6 parcel.

7 (B) ELEMENTS OF AN INVESTIGATION.—
8 An investigation under subparagraph (A) shall
9 include—

10 (i) a review of any available records of
11 the use of the parcel; and

12 (ii) all appropriate analyses of the
13 soil, water, and air associated with the par-
14 cel.

15 (C) PRESENCE OF A HAZARDOUS SUB-
16 STANCE.—A parcel shall not be conveyed under
17 this subsection if the investigation indicates
18 that any hazardous substance is present on the
19 parcel.

20 (3) SUBMISSION TO OTHER STATE AND FED-
21 ERAL AGENCIES.—No application for conveyance
22 under this subsection shall be acted on by the Sec-
23 retary until the applicant has furnished evidence,
24 satisfactory to the Secretary, that a copy of the ap-
25 plication and information concerning the proposed

1 use of the parcel covered by the application has been
2 provided to the Environmental Protection Agency
3 and to all other State and Federal agencies with re-
4 sponsibility for enforcement of Federal and State
5 laws applicable to land used for the disposal, place-
6 ment, or release of solid waste or any hazardous
7 substance.

8 (4) WARRANTY.—No application for conveyance
9 under this subsection shall be acted on by the Sec-
10 retary until the applicant gives a warranty that—

11 (A) use of the parcel covered by the appli-
12 cation will be consistent with all applicable Fed-
13 eral and State laws, including laws dealing with
14 the disposal, placement, or release of hazardous
15 substances; and

16 (B) the applicant will hold the United
17 States harmless from any liability that may
18 arise out of any violation of any such law.

19 (5) REQUIREMENTS.—A conveyance under this
20 subsection shall be made to the extent that the ap-
21 plicant demonstrates to the Secretary that the parcel
22 covered by an application meets all applicable State
23 and local requirements and is appropriate in char-
24 acter and reasonable in acreage in order to meet an
25 existing or reasonably anticipated need for solid

1 waste disposal or for another proposed use that the
2 Secretary finds may include the disposal, placement,
3 or release of any hazardous substance.

4 (6) CONDITIONS.—

5 (A) IN GENERAL.—A conveyance of a par-
6 cel under this subsection shall be subject to the
7 conditions stated in this paragraph.

8 (B) REVERTER.—

9 (i) IN GENERAL.—The instrument of
10 conveyance shall provide that the parcel
11 shall revert to the United States unless
12 substantially all of the parcel has been
13 used, on or before the date that is 5 years
14 after the date of conveyance, for the pur-
15 pose specified in the application, or for
16 other use or uses authorized under sub-
17 section (b) with the consent of the Sec-
18 retary.

19 (ii) LIMITATION.—No portion of a
20 parcel that has been used for solid waste
21 disposal or for any other purpose that the
22 Secretary finds may result in the disposal,
23 placement, or release of a hazardous sub-
24 stance shall revert to the United States.

1 (C) PAYMENT TO THE SECRETARY ON
2 FURTHER CONVEYANCE.—If at any time after
3 conveyance any portion of a parcel has not been
4 used for the purpose specified in the applica-
5 tion, and the entity to which the parcel was
6 conveyed by the Secretary transfers ownership
7 of the unused portion to any other person or
8 entity, the transferee shall be liable to pay the
9 Secretary the fair market value of the trans-
10 ferred portion as of the date of the transfer, in-
11 cluding the value of any improvements on that
12 portion.

13 (D) USE OF PAYMENTS.—Subject to the
14 availability of appropriations, all amounts re-
15 ceived by the Secretary under subparagraph (C)
16 shall be retained by the Secretary, shall be
17 available to the Secretary for use for the man-
18 agement of National Forest System land, and
19 shall remain available until expended.

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