

107TH CONGRESS
2D SESSION

H. R. 4919

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2002

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To provide for the exchange of certain lands in the Coconino
and Tonto National Forests in Arizona, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Tonto and Coconino
3 National Forests Land Exchange Act”.

4 **TITLE I—TONGO AND COCONINO**
5 **NATIONAL FORESTS LAND EX-**
6 **CHANGE**

7 **SEC. 101. FINDINGS; PURPOSE.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) Certain private lands adjacent to the Mon-
10 tezuma Castle National Monument in Yavapai Coun-
11 ty, Arizona, are desirable for Federal acquisition to
12 protect important riparian values along Beaver
13 Creek and the scenic backdrop for the National
14 Monument.

15 (2) Certain other inholdings in the Coconino
16 National Forest are desirable for Federal acquisition
17 to protect important public values near Double
18 Cabin Park.

19 (3) Approximately 108 acres of land within the
20 Tonto National Forest, northeast of Payson, Ari-
21 zona, are currently occupied by 45 residential cabins
22 under special use permits from the Secretary of Ag-
23 riculture, and have been so occupied since the mid-
24 1950s, rendering such lands of limited use and en-
25 joyment potential for the general public. Such lands
26 are, therefore, appropriate for transfer to the cabin

1 owners in exchange for lands that will have higher
2 public use values.

3 (4) In return for the privatization of such en-
4 cumbered lands the Secretary of Agriculture has
5 been offered approximately 495 acres of non-Federal
6 land (known as the Q Ranch) within the Tonto Na-
7 tional Forest, east of Young, Arizona, in an area
8 where the Secretary has completed previous land ex-
9 changes to consolidate public ownership of National
10 Forest lands.

11 (5) The acquisition of the Q Ranch non-Federal
12 lands by the Secretary will greatly increase National
13 Forest management efficiency and promote public
14 access, use, and enjoyment of the area and sur-
15 rounding National Forest System lands.

16 (b) PURPOSE.—The purpose of this title is to author-
17 ize, direct, facilitate, and expedite the consummation of
18 the land exchanges set forth herein in accordance with the
19 terms and conditions of this title.

20 **SEC. 102. DEFINITIONS.**

21 As used in this title:

22 (1) DPSHA.—The term “DPSHA” means the
23 Diamond Point Summer Homes Association, a non-
24 profit corporation in the State of Arizona.

1 (2) FEDERAL LAND.—The term “Federal land”
2 means land to be conveyed into non-Federal owner-
3 ship under this title.

4 (3) FLPMA.—The term “FLPMA” means the
5 Federal Land Policy Management Act of 1976.

6 (4) MCJV.—The term “MCJV” means the
7 Montezuma Castle Land Exchange Joint Venture
8 Partnership, an Arizona Partnership.

9 (5) NON-FEDERAL LAND.—The term “non-Fed-
10 eral land” means land to be conveyed to the Sec-
11 retary of Agriculture under this title.

12 (6) SECRETARY.—The term “Secretary” means
13 the Secretary of Agriculture, unless otherwise speci-
14 fied.

15 **SEC. 103. MONTEZUMA CASTLE LAND EXCHANGE.**

16 (a) LAND EXCHANGE.—Upon receipt of a binding
17 offer from MCJV to convey title acceptable to the Sec-
18 retary to the land described in subsection (b), the Sec-
19 retary shall convey to MCJV all right, title, and interest
20 of the United States in and to the Federal land described
21 in subsection (c).

22 (b) NON-FEDERAL.—The land described in this sub-
23 section is the following:

24 (1) The approximately 157 acres of land adja-
25 cent to the Montezuma Castle National Monument,

1 as generally depicted on the map entitled “Monte-
2 zuma Castle Contiguous Lands”, dated May 2002.

3 (2) Certain private land within the Coconino
4 National Forest, Arizona, comprising approximately
5 108 acres, as generally depicted on the map entitled
6 “Double Cabin Park Lands”, dated September
7 2002.

8 (c) FEDERAL LAND.—The Federal land described in
9 this subsection is the approximately 222 acres in the
10 Tonto National Forest, Arizona, and surveyed as Lots 3,
11 4, 8, 9, 10, 11, 16, 17, and Tract 40 in section 32, Town-
12 ship 11 North, Range 10 East, Gila and Salt River Merid-
13 ian, Arizona.

14 (d) EQUAL VALUE EXCHANGE.—The values of the
15 non-Federal and Federal land directed to be exchanged
16 under this section shall be equal or equalized as deter-
17 mined by the Secretary through an appraisal performed
18 by a qualified appraiser mutually agreed to by the Sec-
19 retary and MCJV and performed in conformance with the
20 Uniform Appraisal Standards for Federal Land Acquisi-
21 tions (U.S. Department of Justice, December 2000), and
22 section 206(d) of the FLPMA (43 U.S.C. 1716(d)). If the
23 values are not equal, the Secretary shall delete Federal
24 lots from the conveyance to MCJV in the following order
25 and priority, as necessary, until the values of Federal and

1 non-Federal land are within the 25 percent cash equali-
2 zation limit of 206(b) of FLPMA:

3 (1) Lot 3.

4 (2) Lot 4.

5 (3) Lot 9.

6 (4) Lot 10.

7 (5) Lot 11.

8 (6) Lot 8.

9 (e) CASH EQUALIZATION.—Any difference in value
10 remaining after compliance with subsection (d) shall be
11 equalized by the payment of cash to the Secretary or
12 MCJV, as the circumstances dictate, in accordance with
13 section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public
14 Law 90–171 (16 U.S.C. 484a; commonly known as the
15 “Sisk Act”) shall, without further appropriation, apply to
16 any cash equalization payment received by the United
17 States under this section.

18 **SEC. 104. DIAMOND POINT—Q RANCH LAND EXCHANGE.**

19 (a) IN GENERAL.—Upon receipt of a binding offer
20 from DPSHA to convey title acceptable to the Secretary
21 to the land described in subsection (b), the Secretary shall
22 convey to DPSHA all right, title, and interest of the
23 United States in and to the land described in subsection
24 (c).

1 (b) NON-FEDERAL LAND.—The land described in
2 this subsection is the approximately 495 acres of non-Fed-
3 eral land generally depicted on the map entitled “Diamond
4 Point Exchange—Q Ranch Non-Federal Lands”, dated
5 May 2002.

6 (c) FEDERAL LAND.—The Federal land described in
7 this subsection is the approximately 108 acres northeast
8 of Payson, Arizona, as generally depicted on a map enti-
9 tled “Diamond Point Exchange—Federal Land”, dated
10 May 2002.

11 (d) EQUAL VALUE EXCHANGE.—The values of the
12 non-Federal and Federal land directed to be exchanged
13 under this section shall be equal or equalized as deter-
14 mined by the Secretary through an appraisal performed
15 by a qualified appraiser mutually agreed to by the Sec-
16 retary and DPSHA and in conformance with the Uniform
17 Appraisal Standards for Federal Land Acquisitions (U.S.
18 Department of Justice, December 2000), and section
19 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are
20 not equal, they shall be equalized by the payment of cash
21 to the Secretary or DPSHA pursuant to section 206(b)
22 of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16
23 U.S.C. 484a; commonly known as the “Sisk Act”) shall,
24 without further appropriation, apply to any cash equali-

1 zation payment received by the United States under this
2 section.

3 (e) SPECIAL USE PERMIT TERMINATION.—Upon
4 execution of the land exchange authorized by this section,
5 all special use cabin permits on the Federal land shall be
6 terminated.

7 **SEC. 105. MISCELLANEOUS PROVISIONS.**

8 (a) EXCHANGE TIMETABLE.—Not later than 6
9 months after the Secretary receives an offer under section
10 103 or 104, the Secretary shall execute the exchange
11 under section 103 or 104, respectively, unless the Sec-
12 retary and MCJV or DPSHA, respectively, mutually agree
13 to extend such deadline.

14 (b) EXCHANGE PROCESSING.—Prior to executing the
15 land exchanges authorized by this title, the Secretary shall
16 perform any necessary land surveys and required
17 preexchange clearances, reviews, and approvals relating to
18 threatened and endangered species, cultural and historic
19 resources, wetlands and floodplains and hazardous mate-
20 rials. If 1 or more of the Federal land parcels or lots, or
21 portions thereof, cannot be transferred to MCJV or
22 DPSHA due to hazardous materials, threatened or endan-
23 gered species, cultural or historic resources, or wetland
24 and flood plain problems, the parcel or lot, or portion
25 thereof, shall be deleted from the exchange, and the values

1 of the lands to be exchanged adjusted in accordance with
2 subsections (d) and (e) of section 103 or section 104(d),
3 as appropriate. In order to save administrative costs to
4 the United States, the costs of performing such work, in-
5 cluding the appraisals required pursuant to this title, shall
6 be paid by MCJV or DPSHA for the relevant property,
7 except for the costs of any such work (including appraisal
8 reviews and approvals) that the Secretary is required or
9 elects to have performed by employees of the Department
10 of Agriculture.

11 (c) FEDERAL LAND RESERVATIONS AND ENCUM-
12 BRANCES.—The Secretary shall convey the Federal land
13 under this title subject to valid existing rights, including
14 easements, rights-of-way, utility lines and any other valid
15 encumbrances on the Federal land as of the date of the
16 conveyance under this title. If applicable to the land con-
17 veyed, the Secretary shall also retain any right of access
18 as may be required by section 120(h) of the Comprehen-
19 sive Environmental Response, Compensation and Liability
20 Act of 1980 (42 U.S.C. 9620(h)) for remedial or corrective
21 action relating to hazardous substances as may be nec-
22 essary in the future.

23 (d) ADMINISTRATION OF ACQUIRED LAND.—The
24 land acquired by the Secretary pursuant to this title shall
25 become part of the Tonto or Coconino National Forest,

1 as appropriate, and be administered as such in accordance
 2 with the laws, rules, and regulations generally applicable
 3 to the National Forest System. Such land may be made
 4 available for domestic livestock grazing if determined ap-
 5 propriate by the Secretary in accordance with the laws,
 6 rules, and regulations applicable thereto on National For-
 7 est System land.

8 (e) TRANSFER OF LAND TO PARK SERVICE.—Upon
 9 their acquisition by the United States, the “Montezuma
 10 Castle Contiguous Lands” identified in section 103(d)(1)
 11 shall be transferred to the administrative jurisdiction of
 12 the National Park Service, and shall thereafter be perma-
 13 nently incorporated in, and administered by the Secretary
 14 of the Interior as part of, the Montezuma Castle National
 15 Monument.

16 **TITLE II—MENDOCINO NA-** 17 **TIONAL FOREST LAND CON-** 18 **VEYANCE**

19 **SEC. 201. LAND CONVEYANCE, FARAWAY RANCH,** 20 **MENDOCINO NATIONAL FOREST, CALI-** 21 **FORNIA.**

22 (a) CONVEYANCE REQUIRED.—Subject to subsection
 23 (b), the Secretary of Agriculture shall convey to the owner
 24 of the property known as the Faraway Ranch in Lake
 25 County, California (in this section referred to as the “re-

1 cipient”), by quitclaim deed, all right, title, and interest
2 of the United States in and to the following National For-
3 est System lands in Mendocino National Forest in Lake
4 County, California:

5 (1) “Faraway Ranch, Tract 39” (approximately
6 15.8 acres) consisting of a portion of lot 6 of section
7 4, township 18 north, range 10 west, Mount Diablo
8 base and meridian, as generally depicted on the map
9 entitled “Faraway Ranch, Tracts 39 and 40” and
10 dated June 30, 2002.

11 (2) “Faraway Ranch, Tract 40” (approximately
12 105.1 acres) consisting of a portion of the N¹/₂SW¹/₄
13 and lot 7 of section 4, and a portion of lots 15 and
14 16 of section 5, township 18 north, range 10 west,
15 Mount Diablo base and meridian, as generally de-
16 picted on the map entitled “Faraway Ranch, Tracts
17 39 and 40” and dated June 30, 2002.

18 (b) TIME FOR CONVEYANCE.—The Secretary shall
19 make the conveyance under subsection (a) not later than
20 120 days after the date on which the recipient deposits
21 sufficient funds with the Bureau of Land Management,
22 California State Office, Branch of Geographic Services, to
23 cover survey work costs and with the Forest Service,
24 Mendocino National Forest, to cover Forest Service direct
25 transaction costs described in subsection (e).

1 (c) CORRECTIONS.—With the agreement of the re-
2 ipient, the Secretary may make minor corrections to the
3 legal descriptions and map of the lands to be conveyed
4 pursuant to this section.

5 (d) CONSIDERATION.—As consideration for the con-
6 veyance under subsection (a), the recipient shall pay to
7 the Secretary an amount equal to the fair market value
8 of the National Forest System lands conveyed under such
9 subsection. The fair market value of such lands shall be
10 determined by an appraisal that is acceptable to the Sec-
11 retary and conforms with the Federal appraisal standards,
12 as defined in the Uniform Appraisal Standards for Fed-
13 eral Land Acquisitions developed by the Interagency Land
14 Acquisition Conference.

15 (e) PAYMENT OF COSTS.—All direct transaction costs
16 associated with the conveyance under section (a), includ-
17 ing the costs of appraisal, title, and survey work, shall be
18 paid by the recipient.

19 (f) USE OF PROCEEDS.—

20 (1) DEPOSIT.—The Secretary shall deposit the
21 amounts received by the Secretary as consideration
22 under subsection (d) in the fund established by Pub-
23 lic Law 90–171 (commonly known as the Sisk Act;
24 16 U.S.C. 484a).

1 (2) USE.—Funds deposited under paragraph
2 (1) shall be available to the Secretary until ex-
3 pended, without further appropriation—

4 (A) for the acquisition of land and inter-
5 ests in land for National Forest System pur-
6 poses in the State of California; and

7 (B) for reimbursement of costs incurred by
8 the Forest Service in making the conveyance
9 under subsection (a).

10 (3) STATUS OF ACQUIRED LAND.—Notwith-
11 standing Public Law 85–862 (16 U.S.C. 521a), any
12 lands acquired under paragraph (2)(A) shall be
13 managed as lands acquired under the March 1, 1911
14 (commonly known as the Weeks Act; 16 U.S.C. 480,
15 500, 515 et seq.), regardless of whether any of the
16 lands conveyed under subsection (a) were reserved
17 from the public domain.

18 (g) WITHDRAWAL.—Subject to valid existing rights,
19 the lands to be conveyed under subsection (a) are hereby
20 withdrawn from all forms of location, entry, and patent

- 1 under the public land laws and the mining and mineral
- 2 leasing laws of the United States.

Passed the House of Representatives September 24,
2002.

Attest:

JEFF TRANDAHL,

Clerk.