

SNOWBASIN LAND EXCHANGE ACT OF 1995

MARCH 25, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 2824]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2824) to authorize an exchange of lands in the State of Utah at Snowbasin Ski Area, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2824 is to authorize an exchange of lands in the State of Utah at Snowbasin Ski Area.

BACKGROUND AND NEED FOR LEGISLATION

Snowbasin Ski Area is located on a mountain located directly west of Ogden, Utah, and approximately 30 miles north of Salt Lake City. Snowbasin has been in operation since the early 1940s. The Sun Valley Company purchased Snowbasin in 1984 and immediately began exploring land exchange possibilities with the U.S. Forest Service.

In 1985, the Sun Valley Company asked the Forest Service to exchange 2,500 acres of land at Snowbasin. The Forest Service reduced the requested acres to 1,320 acres. After the Forest Service conducted an environmental impact statement that included the requisite study, review, and public comment, the agency decided in

September 1990 to exchange approximately 700 acres with Sun Valley. Despite ongoing work on this exchange by the Forest Service and the Sun Valley Company, little progress has been made since 1990.

Salt Lake City has been chosen the site for the 2002 Winter Olympic Games. Snowbasin, because of its unique nature, will be the site of the six major Olympic ski events: the Men and Women's Downhill, Combined Downhill and Super G. The Olympics require that the land exchange proceed as soon as possible to begin the necessary construction of facilities at the base of the mountain, to properly accommodate spectators, athletes, media, and others connected with these events.

H.R. 2824 would exchange 1,320 acres of Federal lands at the base of Snowbasin for over 4,100 acres of high priority private lands in and around the Cache National Forest. This is an equal value exchange that will add critical lands to the existing National Forest and will allow Snowbasin to host the Olympic events.

COMMITTEE ACTION

H.R. 2824 was introduced on December 21, 1995, by Congressman James V. Hansen of Utah. The bill was referred to the Committee on Resources.

H.R. 2824 is identical to the text of H.R. 2402, also introduced by Congressman Hansen, as reported from the Committee on Resources on November 15, 1995. For the legislative history of H.R. 2402, see House Report 104-409.

On March 13, 1996, the Committee on Resources met to consider H.R. 2824. After the bill was called up before the Committee, the previous question was ordered by a rollcall vote of 22 ayes/16 noes, as follows:

BILL NO. H.R. 2824—HANSEN MOTION TO MOVE THE PREVIOUS QUESTION

Members	Yeas	Nays
Mr. Young (Chairman)	X	.....
Mr. Tauzin	X	.....
Mr. Hansen	X	.....
Mr. Saxton .....	.....	.....
Mr. Gallegly .....	.....	.....
Mr. Duncan .....	.....	.....
Mr. Hefley	X	.....
Mr. Doolittle	X	.....
Mr. Allard	X	.....
Mr. Gilchrest	X	.....
Mr. Calvert	X	.....
Mr. Pombo	X	.....
Mr. Torkildsen	X	.....
Mr. Hayworth	X	.....
Mr. Cremeans	X	.....
Mrs. Cubin	X	.....
Mr. Cooley	X	.....
Mrs. Chenoweth .....	.....	.....
Mrs. Smith	X	.....
Mr. Radanovich	X	.....
Mr. Jones	X	.....
Mr. Thornberry	X	.....
Mr. Hastings	X	.....
Mr. Metcalf	X	.....
Mr. Longley	X	.....

BILL NO. H.R. 2824—HANSEN MOTION TO MOVE THE PREVIOUS QUESTION—Continued

Members	Yeas	Nays
Mr. Shadegg	X	.....
Mr. Ensign
Mr. Miller	X
Mr. Markey	X
Mr. Rahall
Mr. Vento
Mr. Kildee	X
Mr. Williams
Mr. Gejdenson	X
Mr. Richardson	X
Mr. DeFazio	X
Mr. Falemavaega	X
Mr. Johnson
Mr. Abercrombie	X
Mr. Studds	X
Mr. Ortiz
Mr. Pickett
Mr. Pallone	X
Mr. Dooley	X
Mr. Romero-Barceló	X
Mr. Hinchey	X
Mr. Underwood	X
Mr. Farr	X
Mr. Kennedy	X
Total	22	16

The bill was then ordered favorably reported to the House of Representatives by a roll call vote of 26 ayes/15 nays, as follows:

BILL NO. H.R. 2824—FINAL PASSAGE

Members	Yeas	Nays
Mr. Young (Chairman)	X	.....
Mr. Tauzin	X	.....
Mr. Hansen	X	.....
Mr. Saxton	X	.....
Mr. Gallegly .....	.....	.....
Mr. Duncan .....	.....	.....
Mr. Hefley	X	.....
Mr. Doolittle	X	.....
Mr. Allard	X	.....
Mr. Gilchrest	X	.....
Mr. Calvert	X	.....
Mr. Pombo	X	.....
Mr. Torkildsen	X	.....
Mr. Hayworth	X	.....
Mr. Cremeans	X	.....
Mrs. Cubin	X	.....
Mr. Cooley	X	.....
Mrs. Chenoweth .....	.....	.....
Mrs. Smith .....	.....	.....
Mr. Radanovich	X	.....
Mr. Jones	X	.....
Mr. Thornberry	X	.....
Mr. Hastings	X	.....
Mr. Metcalf	X	.....
Mr. Longley	X	.....
Mr. Shadegg	X	.....
Mr. Ensign	X	.....
Mr. Miller .....	.....	X
Mr. Markey .....	.....	X
Mr. Rahall .....	.....	.....
Mr. Vento .....	.....	X

BILL NO. H.R. 2824—FINAL PASSAGE—Continued

Members	Yeas	Nays
Mr. Kildee		X
Mr. Williams		
Mr. Gejdenson		X
Mr. Richardson		X
Mr. DeFazio		X
Mr. Faleomavaega		X
Mr. Johnson		
Mr. Abercrombie		X
Mr. Studds		X
Mr. Ortiz		
Mr. Pickett	X	
Mr. Pallone		X
Mr. Dooley	X	
Mr. Romero-Barceló	X	
Mr. Hinchey		X
Mr. Underwood		X
Mr. Farr		X
Mr. Kennedy		X
Total	26	15

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the Snowbasin Land Exchange Act of 1995.

Section 2. Findings and determination

This section contains seven findings and a determination that a legislative land exchange is necessary to meet Olympic goals and timetables.

Section 3. Purpose and intent

The bill would authorize and direct the Secretary of Agriculture to exchange 1,320 acres of the Cache National Forest with the Sun Valley Company.

Section 4. Definitions

This section defines “Sun Valley Company” and “Secretary”.

Section 5. Exchange

Under subsection (a) the Secretary must transfer title to the described 1,320 acres in the Cache National Forest not later than 45 days after final determination of value.

Under subsection (b), upon the transfer of the 1,320 acres, the Sun Valley Company shall convey title to the Secretary of the lands described in subsections (b)(1–5) as previously identified by the Forest Service as desirable additions to the Cache National Forest.

Under subsection (c), if the lands described in subsection (b) cannot be exchanged, the Sun Valley Company may convey other selected lands to the Secretary in lieu of the previously selected lands.

Subsection (d) relates to valuation and appraisals. Values of the exchanged properties are to be of approximate equal value using nationally recognized appraisal standards. If the values cannot be equalized with land, they may be equalized through cash payments

pursuant to the Federal Land Policy and Management Act. The Sun Valley Company will pay for the appraisals to be completed within 90 days of enactment of this Act. The Secretary is directed to make a determination of value not later than 30 days after receipt of the appraisals. Any disputes will be resolved through a bargaining process or arbitrator. To expedite the appraisal of the Federal selected lands, the appraisals shall consider several conditions as specified in subsections (d)(2)(A–F).

Section 6. General provisions relating to the exchange

Under subsection (a), the exchange is subject to the following terms and conditions: (1) The Secretary shall reserve a right of reasonable public and administrative access across the Federal lands to be conveyed and the terms of such access shall be prescribed by the Secretary within 30 days of enactment; and (2) This Act is not binding on either party if within 30 days of final determination of value, the Sun Valley Company submits an intention not to exchange to the Secretary.

In addition, subject to existing rights, the Federal lands to be conveyed and the existing lands under permit are withdrawn from all forms of appropriation under the public land laws. Lands to be conveyed to the Federal Government shall be under a general warranty deed or other acceptable deed. Lands accepted by the Secretary shall be part of the National Forest System and be administered as such.

Section 7. Phase I facility construction and operation

The Secretary is instructed to implement the Phase I Master Development Plan for the Snowbasin Ski Area. This section does not affect the Secretary's responsibility to monitor and assure compliance with the environmental provisions of the plan. The Phase I Master Development Plan may be modified by mutual agreement between the Secretary and the Sun Valley Company. Congress finds that this exchange and the actions taken by the Secretary under this section relating to the Phase I facilities are in compliance with all other relevant laws. Finally, the Secretary is directed to report to the relevant Committees whether implementation of the Master Development Plan provides sufficient environmental protections.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment of H.R. 2824 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the committee of the costs which would be incurred in carrying out H.R. 2824. However, clause 7(d) of that rule provides that this requirement does not apply with the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2824 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures or increase in revenues. However, the bill will cost the Federal Government lost receipts from permits fees totally less than \$25,000 annually.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2824.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2824 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 19, 1996.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2824, the Snowbasin Land Exchange Act of 1995, as ordered reported by the House Resources Committee on March 13, 1995. We estimate that enacting this bill would affect direct spending; therefore, pay-as-you-go procedures would apply to the bill. However, we estimate that any such change would be insignificant.

H.R. 2824 would authorize and direct the Secretary of Agriculture to transfer 1,230 acres of federally owned land to the Snowbasin Ski Area, located within the Cache National Forest in Utah. In exchange, the Forest Service would receive about 4,100 acres of privately owned land of roughly equal value located within the Cache National Forest. Based on information from the Forest Service, CBO estimates this exchange would cause the federal government to lose receipts from permit fees totaling less than \$25,000 annually. We estimate that no significant change in discretionary spending would result from enacting this bill.

H.R. 2824 contains no intergovernmental or private sector mandates as defined in Public Law 104-4. The state of Utah would lose a small amount of receipts as a result of the proposed land transfer because it receives 25 percent of the permit fees paid by ski areas on federal lands within the state. Such a loss is not the result of a mandate, however, because it does not stem from imposing an enforceable duty on the state. The bill would impose no other costs on state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The staff contacts are Victoria V. Heid and, for the state and local impact, Marjorie Miller.

Sincerely,

JUNE E. O'NEILL, *Director.*

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2824 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 2824 would make no changes in existing law.

DEPARTMENTAL REPORTS

The committee received an unfavorable report on H.R. 2824 from the Department of Agriculture on November 7, 1995. No other reports have been received on H.R. 2824.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, November, 1995.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As a followup to our testimony of September 28, 1995, before the House Subcommittee on National Parks, Forests, and Lands, we would like to offer our views on H.R. 2402, a bill "To authorize an exchange of lands in the State of Utah at Snowbasin Ski Area". Our comments are to the bill as reported by the Subcommittee on National Parks, Forests, and Lands of the Committee on Resources.

The Department of Agriculture cannot support H.R. 2402 as reported unless it is amended, as we suggest. We would be happy to work with the Committee to draft language that is agreeable to both Congress and the Administration.

H.R. 2402 would direct an exchange of 1,320 acres of federally-owned land at Snowbasin Ski Area within the Wasatch-Cache National Forest for lands of approximately equal value owned by the Sun Valley Company in the State of Utah. The proposed legislation would direct that the exchange be made without delay to facilitate certain ski events as part of the 2002 Olympic Winter Games, and would exempt the exchange from the requirements of all environmental and other laws. It would prohibit any envi-

ronmental analysis, resource surveys, or other procedures as a condition to effecting any other provision of the Act.

The Administration strongly opposes the inclusion of sufficiency language in this bill. The Administration pledges to work with Congress to make certain that adequate resources are allocated to ensure a timely transfer consistent with current laws.

We should note that there are alternatives to a legislated land exchange. One option is to complete the process for an administrative land exchange. Since 1986, the Sun Valley Company has sought to exchange land with the Forest Service in order to develop a four season resort at Snowbasin. As stated, in 1990, after environmental analysis and public involvement, the Forest Service approved an amendment to the forest Land and Resource Management Plan that designated 700 acres of Federal land at Snowbasin available for land exchange. Before the Forest Service would approve an administrative land exchange, the Sun Valley Company was to complete a Master Development Plan that would include, among other things, the types of activities that will be covered, and the location and timing of construction. The Master Development Plan is to cover National Forest lands that would remain under special-use permit and the National Forest lands to be exchanged. This Master Development Plan has been drafted and is expected to be completed by the Sun Valley Company in the fall of 1995. As soon as the Master Plan is completed, the Forest Service plans to begin an environmental impact statement (EIS) to consider the Master Development Plan and the concurrent administrative land exchange including the private lands offered in exchange. The EIS is planned for completion by the fall of 1996. This bill would supersede the administrative processes.

The objective of H.R. 2402 is to expedite planning and development of the Snowbasin Ski Area in preparation for the 2002 Olympic Winter Games. We support this objective. However, we have the following concerns with the provisions of H.R. 2402 and recommend that the bill be amended.

Conveyance Provisions—Language in Section 5 of the bill concerning conveyance of Federal lands requires the United States to convey approximately 1,320 acres of Federal lands no later than 45 days after a final determination of value of the Federal lands. Upon transfer of the Federal lands, Sun Valley Company is to convey title to certain lands of approximately equal value that have previously been identified as desirable by the Secretary of Agriculture, or additional lands mutually identified as desirable for United States acquisition by Sun Valley and the Secretary. Additionally, if some of the identified lands cannot be conveyed, or if the Secretary and Sun Valley mutually agree, Sun Valley Company is given discretion to convey alternative lands identified by the Secretary to the United States.

We would interpret Section 5 as allowing a simultaneous exchange of the Federal and non-Federal lands. We would oppose any legislative land exchange requiring conveyance of Federal lands prior to the conveyance of non-Federal lands. In such a case, there would not be adequate means to ensure that the United States receive conveyance of appropriate lands after the Federal lands have been conveyed.

We are concerned about the provision in Section 5(b)(5) that would allow Sun Valley Company to participate in identifying which lands are desirable for acquisition by the United States. Such a determination should be made exclusively by the Secretary. Moreover, we are concerned that Section 5(c) gives Sun Valley Company too much discretion in deciding whether and which alternative non-Federal lands will be conveyed in the exchange. If alternative lands are allowed to be conveyed, the legislation should state clearly that the lands are to be lands identified and acceptable to the Secretary.

Valuation and Appraisals—Language in Section 5(d) concerning valuation calls for the values of land to be approximately equal value as determined by the Secretary using nationally recognized appraisal standards. The provision specifically lists a number of conditions or assumptions that are to be included in the appraisal, and directs Sun Valley to arrange for appraisal of the lands by a mutually acceptable qualified appraiser. Finally, it provides for bargaining or arbitration if the Secretary and Sun Valley disagree as to the value. These two processes to determine approximately equal value are contradictory and the special conditions and assumptions to be considered are inconsistent with national professional appraisal standards.

We recommend that the language concerning appraisals be deleted and that the Secretary be given authority to determine that the lands to be exchanged pursuant to this Act are approximately equal. The Secretary's determination will be based on a consultation by a Forest Service qualified appraiser.

Reserved Rights-of-Way—Language in Section 6(a) concerning reservation of public access authorizes the Secretary of the Interior to reserve a right of access for administrative purposes of the United States. We believe the legislation also should clearly provide authority for a reservation for public access across the property to adjacent Federal lands.

Implementation of Plan—Language in Section 6(e) concerning restrictions on Federal land management directs the Secretary to implement the Master Development Plan for the Federal lands in the Snowbasin Ski Area and language in Section 6(f) provides for modification of the Master Development Plan by mutual agreement. This Plan is not complete and has not been reviewed by the Forest Service. Because this Plan is being developed by Sun Valley Company, these provisions effectively would require

the Secretary to manage Federal lands in accordance with the directions of a private company. Although the company's Master Development Plan is needed to determine how lands under special-use permits should be utilized, the Secretary must retain ultimate authority to review and approve the plan and to determine how Federal lands are managed. Consequently, we oppose this provision.

We are waiting the completion of the Master Development Plan by Sun Valley, which is anticipated by mid-November 1995. Once the Plan is submitted to the Secretary for review, we will move expeditiously to review and approve the Plan.

Report to Congress—Language in Section 6(g) concerning a Report to the Congress directs the Secretary to report to Congress that the implementation of the Master Development Plan provides sufficient environmental protections. This reporting condition is unclear as to the ability of the Secretary to report if the plan does not provide sufficient environmental protection, and should be deleted.

Protection of Wetlands and Riparian Areas—There is a need for language in the bill to protect wetlands and riparian habitats. Critical wetlands associated with Wheeler Spring and Wheeler Creek are unique to the Wasatch Range. In addition, Wheeler Creek is Ogden's municipal watershed. Therefore, the Wheeler Creek riparian corridor should be protected in this exchange.

Finding of Conformity with Other Laws—Language in Section 6(h) of the bill exempts the 1,320 acres land exchange and Phase I of the Master Development Plan from the requirements of all other laws, including those relating to environmental protection. No environmental analysis, resource surveys, or other action could be taken to protect areas of concern. Exemption of the entire 1,320 acres and implementation of Phase I of the Master Development Plan would circumvent our responsibilities under environmental protection and other existing laws. As we stated earlier, the Administration strongly opposes the inclusion of sufficiency language in this bill. The Administration pledge to work with Congress to make certain that adequate resources are allocated to ensure a timely transfer consistent with current law.

Status of Lands and Adjustment of National Forest Boundaries—There is a need to clarify the status of lands and adjustment of National Forest boundaries upon acceptance of title of non-Federal lands. We believe that the bill should provide for adjustment of the boundaries of the Wasatch or Cache National Forest to encompass the conveyed lands. The bill should state that, the lands are to be administered according to the Weeks Act and in accordance with any other laws, rules, and regulations applicable to National Forest System lands. Additionally, the bill should state that the adjusted boundaries are to be considered to be the boundaries of the National Forest as of Jan-

uary 1, 1965, for the purposes of Section 7 of the Land and Conservation Fund.

The estimated administrative costs for land survey, appraisal, and title work on this exchange is \$80,900. This cost could be covered within the FY 1996 President's Budget amount for land exchange.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAN GLICKMAN,
Secretary.

DISSENTING VIEWS OF REPRESENTATIVE BILL
RICHARDSON

I strongly protest the heavy-handed manner in which the majority reported from Committee H.R. 2824, the Snowbasin Land Exchange.

Having failed to achieve a quorum on the original Snowbasin measure (H.R. 2402) when it was ordered reported in November 1995, the bill's sponsor found it necessary to introduce an identical bill (H.R. 2824) for the committee to consider on March 13, 1996. Instead of allowing a fair and open debate on the bill, the majority ordered the previous question immediately after opening statements, for the express purpose of precluding me from offering any amendment to the bill.

There are substantial concerns with the bill that I had hoped would be addressed before the committee reported the legislation. The Forest Service in their testimony before the committee identified several concerns with the proposed exchange. Those concerns were elaborated on in the legislative report on the bill that Agriculture Secretary Glickman sent to the committee. I too am concerned about the aspects of this legislation that waive all laws with regards to the exchange; grant congressional approval to a privately-prepared master development plan that was just completed on November 1st; and direct the Forest Service to implement on national forest land phase I of this privately-prepared master plan, as proposed by the ski operator. In addition, I am concerned about the specific directives on the appraisal methods to be used to determine the value of the Federal lands. The bill reported by the committee fails to adequately address those substantial concerns.

You don't solve problems by muzzling debate. I have had several meetings with Representative Hansen, the bill's sponsor, and Undersecretary Lyons in an attempt to work out the substantial problems with this bill. I think the sort of heavy-handed treatment used by the majority to preclude debate on my amendments discourages rather than encourages agreement.

I had focused my amendments on two important questions; the appraisal standards and sufficiency language contained in the bill. Those questions are also at the heart of the administration's and the Forest Service's opposition to the bill.

There are many other questions that could be raised. While this exchange is being wrapped in the Olympics, the Salt Lake City Tribune in a November 22, 1995 editorial noted "That's a bit disingenuous. Snowbasin doesn't need 1,320 acres to stage Olympic events; it can construct the necessary ski lifts and staging areas on much less than that." They further conclude that "The bill is about development of condominiums and residential units, not Olympic facilities".

What is the development that is being proposed on the exchanged land? Right there in the privately prepared master plan, that was only completed in November 1995, it includes 1,092 hotel rooms, 818 condominiums, 467 townhouses, 199 large houses and a 9 hole golf course. When this exchange was proposed in 1990, then Forest supervisor and now regional Forester Dale Bosworth, drastically scaled back the exchange saying that "I cannot in good conscience dispose of public land for that purpose." Now that the Olympics are coming to Utah, the rush is on. I for one will not roll-over.

The majority would like to pass this bill, as if it was all worked out. It isn't. It has problems. I am willing to continue working with the sponsor and others on this but until those problems are addressed I will oppose the bill and urge others to do likewise.

BILL RICHARDSON.

