

## Calendar No. 261

108TH CONGRESS  
1ST SESSION**H. R. 622****[Report No. 108–137]**

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## IN THE SENATE OF THE UNITED STATES

APRIL 2, 2003

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

AUGUST 26, 2003

Reported under authority of the order of the Senate of July 29 (legislative  
day, July 21), 2003, by Mr. DOMENICI, with amendments[Omit the part struck through and insert the part printed in *italic*]

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**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,*

3       **SECTION 1. FINDINGS; PURPOSE.**

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

5               (1) Certain private lands adjacent to the Mon-  
6       tezuma Castle National Monument in Yavapai Coun-

1 ty, Arizona, are desirable for Federal acquisition to  
2 protect important riparian values along Beaver  
3 Creek and the scenic backdrop for the National  
4 Monument.

5 (2) Certain other inholdings in the Coconino  
6 National Forest are desirable for Federal acquisition  
7 to protect important public values near Double  
8 Cabin Park.

9 (3) Approximately 108 acres of land within the  
10 Tonto National Forest, northeast of Payson, Ari-  
11 zona, are currently occupied by 45 residential cabins  
12 under special use permits from the Secretary of Ag-  
13 riculture, and have been so occupied since the mid-  
14 1950s, rendering such lands of limited use and en-  
15 joyment potential for the general public. Such lands  
16 are, therefore, appropriate for transfer to the cabin  
17 owners in exchange for lands that will have higher  
18 public use values.

19 (4) In return for the privatization of such en-  
20 cumbered lands the Secretary of Agriculture has  
21 been offered approximately 495 acres of non-Federal  
22 land (known as the Q Ranch) within the Tonto Na-  
23 tional Forest, east of Young, Arizona, in an area  
24 where the Secretary has completed previous land ex-

1 changes to consolidate public ownership of National  
2 Forest lands.

3 (5) The acquisition of the Q Ranch non-Federal  
4 lands by the Secretary will greatly increase National  
5 Forest management efficiency and promote public  
6 access, use, and enjoyment of the area and sur-  
7 rounding National Forest System lands.

8 (b) PURPOSE.—The purpose of this Act is to author-  
9 ize, direct, facilitate, and expedite the consummation of  
10 the land exchanges set forth herein in accordance with the  
11 terms and conditions of this Act.

12 **SEC. 2. DEFINITIONS.**

13 As used in this Act:

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

17 (2) FEDERAL LAND.—The term “Federal land”  
18 means land to be conveyed into non-Federal owner-  
19 ship under this Act.

20 (3) FLPMA.—The term “FLPMA” means the  
21 Federal Land Policy Management Act of 1976 (*43*  
22 *U.S.C. 1701 et seq.*).

23 (4) MCJV.—The term “MCJV” means the  
24 Montezuma Castle Land Exchange Joint Venture  
25 Partnership, an Arizona Partnership.

1           (5) NON-FEDERAL LAND.—The term “non-Fed-  
2       eral land” means land to be conveyed to the Sec-  
3       retary of Agriculture under this Act.

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

7   **SEC. 3. MONTEZUMA CASTLE LAND EXCHANGE.**

8       (a) LAND EXCHANGE.—Upon receipt of a binding  
9       offer from MCJV to convey title acceptable to the Sec-  
10      retary to the land described in subsection (b), the Sec-  
11      retary shall convey to MCJV all right, title, and interest  
12      of the United States in and to the Federal land described  
13      in subsection (c).

14      (b) NON-FEDERAL *LAND*.—The land described in  
15      this subsection is the following:

16           (1) The approximately 157 acres of land adja-  
17      cent to the Montezuma Castle National Monument,  
18      as generally depicted on the map entitled “Monte-  
19      zuma Castle Contiguous Lands”, dated May 2002.

20           (2) Certain private land within the Coconino  
21      National Forest, Arizona, comprising approximately  
22      108 acres, as generally depicted on the map entitled  
23      “Double Cabin Park Lands”, dated September  
24      2002.

1 (c) FEDERAL LAND.—The Federal land described in  
 2 this subsection is the approximately 222 acres in the  
 3 Tonto National Forest, Arizona, and surveyed as Lots 3,  
 4 4, 8, 9, 10, 11, 16, *and* 17, and Tract 40 in section 32,  
 5 Township 11 North, Range 10 East, Gila and Salt River  
 6 Meridian, Arizona.

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

- 21 (1) Lot 3.
- 22 (2) Lot 4.
- 23 (3) Lot 9.
- 24 (4) Lot 10.
- 25 (5) Lot 11.

1 (6) Lot 8.

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

11 **SEC. 4. DIAMOND POINT—Q RANCH LAND EXCHANGE.**

12 (a) IN GENERAL.—Upon receipt of a binding offer  
 13 from DPSHA to convey title acceptable to the Secretary  
 14 to the land described in subsection (b), the Secretary shall  
 15 convey to DPSHA all right, title, and interest of the  
 16 United States in and to the land described in subsection  
 17 (c).

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

23 (c) FEDERAL LAND.—The Federal land described in  
 24 this subsection is the approximately 108 acres northeast  
 25 of Payson, Arizona, as generally depicted on a map the

1 *map* entitled “Diamond Point Exchange—Federal Land”,  
2 dated May 2002.

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

19 (e) SPECIAL USE PERMIT TERMINATION.—Upon  
20 execution of the land exchange authorized by this section,  
21 all special use cabin permits on the Federal land shall be  
22 terminated.

23 **SEC. 5. MISCELLANEOUS PROVISIONS.**

24 (a) EXCHANGE TIMETABLE.—Not later than 6  
25 months after the Secretary receives an offer under section

1 3 or 4, the Secretary shall execute the exchange under  
2 section 3 or 4, respectively, unless the Secretary and  
3 MCJV or DPSHA, respectively, mutually agree to extend  
4 such deadline.

5 (b) EXCHANGE PROCESSING.—Prior to executing the  
6 land exchanges authorized by this Act, the Secretary shall  
7 perform any necessary land surveys and required  
8 preexchange clearances, reviews, and approvals relating to  
9 threatened and endangered species, cultural and historic  
10 resources, wetlands and floodplains and hazardous mate-  
11 rials. If 1 or more of the Federal land parcels or lots, or  
12 portions thereof, cannot be transferred to MCJV or  
13 DPSHA due to hazardous materials, threatened or endan-  
14 gered species, cultural or historic resources, or wetland  
15 and flood plain problems, the parcel or lot, or portion  
16 thereof, shall be deleted from the exchange, and the values  
17 of the lands to be exchanged adjusted in accordance with  
18 subsections (d) and (e) of section 3 or section 4(d), as  
19 appropriate. In order to save administrative costs to the  
20 United States, the costs of performing such work, includ-  
21 ing the appraisals required pursuant to this Act, shall be  
22 paid by MCJV or DPSHA for the relevant property, ex-  
23 cept for the costs of any such work (including appraisal  
24 reviews and approvals) that the Secretary is required or



1 elects to have performed by employees of the Department  
2 of Agriculture.

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

15       (d) ADMINISTRATION OF ACQUIRED LAND.—The  
16 land acquired by the Secretary pursuant to this Act shall  
17 become part of the Tonto or Coconino National Forest,  
18 as appropriate, and be administered as such in accordance  
19 with the laws, rules, and regulations generally applicable  
20 to the National Forest System. Such land may be made  
21 available for domestic livestock grazing if determined ap-  
22 propriate by the Secretary in accordance with the laws,  
23 rules, and regulations applicable thereto on National For-  
24 est System land.

1       (e) TRANSFER OF LAND TO *NATIONAL* PARK SERV-  
2 ICE.—Upon their acquisition by the United States, the  
3 “Montezuma Castle Contiguous Lands” identified in sec-  
4 tion ~~3(d)(1)~~ 3(b)(1) shall be transferred to the administra-  
5 tive jurisdiction of the National Park Service, and shall  
6 thereafter be permanently incorporated in, and adminis-  
7 tered by the Secretary of the Interior as part of, the Mon-  
8 tezuma Castle National Monument.



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