

Union Calendar No. 439

108TH CONGRESS
2D SESSION

S. 1814

[Report No. 108–716, Part 1]

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2004

Referred to the Committee on Resources, and in addition to the Committees on Agriculture, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 4, 2004

Reported by the Committee on Resources

OCTOBER 4, 2004

Referral to the Committees on Agriculture and Education and the Workforce extended for a period ending not later than October 4, 2004

OCTOBER 4, 2004

The Committees on Agriculture and Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

AN ACT

To transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

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. PURPOSES AND DEFINITIONS.**

2 (a) PURPOSES.—The purposes of this Act are—

3 (1) to transfer administrative jurisdiction of
4 certain Federal lands in Missouri from the Secretary
5 of the Interior to the Secretary of Agriculture for
6 continued Federal operation of the Mingo Job Corps
7 Civilian Conservation Center; and

8 (2) to not change the Secretary of Labor’s role
9 or authority regarding this Job Corps Center.

10 (b) DEFINITIONS.—For the purposes of this Act—

11 (1) “Center” means the Mingo Job Corps Civil-
12 ian Conservation Center in Stoddard County, Mis-
13 souri, referenced in section 2(a) of this Act;

14 (2) “eligible employee” means a person who, as
15 of the date of enactment of this Act, is a full-time,
16 part-time, or intermittent annual or per hour perma-
17 nent Federal Government employee of the Fish and
18 Wildlife Service at the Mingo Job Corps Civilian
19 Conservation Center, including the two fully funded
20 Washington Office Job Corps support staff;

21 (3) “Environmental Authorities” mean all ap-
22 plicable Federal, State and local laws (including reg-
23 ulations) and requirements related to protection of
24 human health, natural resources, or the environ-
25 ment, including but not limited to: the Comprehen-
26 sive Environmental Response, Compensation and Li-

1 ability Act of 1980 (42 U.S.C. 9601, et seq.); the
2 Solid Waste Disposal Act (42 U.S.C. 6901, et seq.);
3 the Federal Water Pollution Control Act (33 U.S.C.
4 1251, et seq.); the Clean Air Act (42 U.S.C. 7401,
5 et seq.); the Federal Insecticide, Fungicide, and
6 Rodenticide Act (7 U.S.C. 136, et seq.); the Toxic
7 Substances Control Act (15 U.S.C. 2601, et seq.);
8 the Safe Drinking Water Act (42 U.S.C. 300f, et
9 seq.); and the National Environmental Policy Act of
10 1969 (42 U.S.C. 4321, et seq.);

11 (4) “U.S. Fish and Wildlife Service” means the
12 United States Fish and Wildlife Service as ref-
13 erenced at title 16, United States Code, section
14 742b(b);

15 (5) “Forest Service” means the Department of
16 Agriculture Forest Service as established by the Sec-
17 retary of Agriculture pursuant to the authority of
18 title 16, United States Code, section 551;

19 (6) “Job Corps” means the national Job Corps
20 program established within the Department of
21 Labor, as set forth in the Workforce Investment Act
22 of 1998, Public Law No. 105–220, §§ 141–161, 112
23 Stat. 1006–1021 (1998) (codified at 29 U.S.C.
24 2881–2901);

1 (7) “National Forest System” means that term
2 as defined at title 16, United States Code, section
3 1609(a); and

4 (8) “National Wildlife Refuge System” means
5 that term as defined at title 16, United States Code,
6 section 668dd.

7 **SEC. 2. TRANSFER OF ADMINISTRATION.**

8 (a) TRANSFER OF CENTER.—Administrative jurisdic-
9 tion over the Mingo Job Corps Civilian Conservation Cen-
10 ter, comprising approximately 87 acres in Stoddard Coun-
11 ty, Missouri, as generally depicted on a map entitled
12 “Mingo National Wildlife Refuge”, dated September 17,
13 2002, to be precisely identified in accordance with sub-
14 section (c) of this section, is hereby transferred, without
15 consideration, from the Secretary of the Interior to the
16 Secretary of Agriculture.

17 (b) MAPS AND LEGAL DESCRIPTIONS.—

18 (1) The map referenced in this section shall be
19 on file and available for public inspection in the Of-
20 fice of the Chief, Forest Service, Washington, DC,
21 and in the office of the Chief of Realty, U.S. Fish
22 and Wildlife Service, Arlington, Virginia.

23 (2) Not later than 180 days after the date of
24 enactment of this Act, the Secretary of the Interior,
25 in consultation with the Secretary of Agriculture,

1 shall file a legal description and map of all of the
2 lands comprising the Center and being transferred
3 by section 2(a) of this Act with the Committee on
4 Resources of the United States House of Represent-
5 atives and the Committee on Environment and Pub-
6 lic Works of the United States Senate, and such de-
7 scription and map shall have the same force and ef-
8 fect as if included in this Act, except that the Sec-
9 retary of the Interior may make typographical cor-
10 rections as necessary.

11 (c) APPLICABLE LAWS.—

12 (1) Subject to section 3, the Center transferred
13 pursuant to subsection (a) shall be administered by
14 the Secretary of Agriculture and shall be subject to
15 the laws and regulations applicable to the National
16 Forest System.

17 (2) This transfer shall not conflict or interfere
18 with any laws and regulations applicable to Job
19 Corps.

20 **SEC. 3. IMPLEMENTATION OF TRANSFER.**

21 (a) REVERSION REQUIREMENT.—

22 (1) In the event that the Center is no longer
23 used or administered for Job Corps purposes, as
24 concurred to by the Secretary of Labor, the Sec-
25 retary of Agriculture shall so notify the Secretary of

1 the Interior, and the Secretary of the Interior shall
2 have 180 days from the date of such notice to exercise
3 discretion to reassume jurisdiction over such lands.

4 (2) The reversionary provisions of subsection
5 (a) shall be effected, without further action by the
6 Congress, through a Letter of Transfer executed by
7 the Chief, Forest Service, and the Director, United
8 States Fish and Wildlife Service, and with notice
9 thereof published in the Federal Register within 60
10 days of the date of the Letter of Transfer.

11 (b) AUTHORIZATIONS.—

12 (1) IN GENERAL.—A permit or other authoriza-
13 tion granted by the U.S. Fish and Wildlife Service
14 on the Center that is in effect on the date of enact-
15 ment of this Act will continue with the concurrence
16 of the Forest Service.

17 (2) REISSUANCE.—A permit or authorization
18 described in paragraph (1) may be reissued or termi-
19 nated under terms and conditions prescribed by the
20 Forest Service.

21 (3) EXERCISE OF RIGHTS.—The Forest Service
22 may exercise any of the rights of the U.S. Fish and
23 Wildlife Service contained in any permit or other au-
24 thorization, including any right to amend, modify,
25 and revoke the permit or authorization.

1 (c) CONTRACTS.—

2 (1) EXISTING CONTRACTS.—The Forest Service
3 is authorized to undertake all rights and obligations
4 of the U.S. Fish and Wildlife Service under con-
5 tracts entered into by the U.S. Fish and Wildlife
6 Service on the Center that is in effect on the date
7 of enactment of this Act.

8 (2) NOTICE OF NOVATION.—The Forest Service
9 shall promptly notify all contractors that it is as-
10 suming the obligations of the U.S. Fish and Wildlife
11 Service under such contracts.

12 (3) DISPUTES.—Any contract disputes under
13 the Contracts Disputes Act (41 U.S.C. 601, et seq.)
14 regarding the administration of the Center and aris-
15 ing prior to the date of enactment of this Act shall
16 be the responsibility of the U.S. Fish and Wildlife
17 Service.

18 (d) MEMORANDUM OF AGREEMENT.—

19 (1) IN GENERAL.—The Chief, Forest Service,
20 and the Director, U.S. Fish and Wildlife Service, are
21 authorized to enter into a memorandum of agree-
22 ment concerning implementation of this Act, includ-
23 ing procedures for—

1 (A) the orderly transfer of employees of
2 the U.S. Fish and Wildlife Service to the Forest
3 Service;

4 (B) the transfer of property, fixtures, and
5 facilities;

6 (C) the transfer of records;

7 (D) the maintenance and use of roads and
8 trails; and

9 (E) other transfer issues.

10 (e) AGREEMENTS WITH THE SECRETARY OF
11 LABOR.—In the operation of the Center, the Forest Serv-
12 ice will undertake the rights and obligations of the U.S.
13 Fish and Wildlife Service with respect to existing agree-
14 ments with the Secretary of Labor pursuant to Public Law
15 105–220 (29 U.S.C. 2887, et seq.), and the Forest Service
16 will be the responsible agency for any subsequent agree-
17 ments or amendments to existing agreements.

18 (f) RECORDS.—

19 (1) AREA MANAGEMENT RECORDS.—The Forest
20 Service shall have access to all records of the U.S.
21 Fish and Wildlife Service pertaining to the manage-
22 ment of the Center.

23 (2) PERSONNEL RECORDS.—The personnel
24 records of eligible employees transferred pursuant to
25 this Act, including the Official Personnel Folder,

1 Employee Performance File, and other related files,
2 shall be transferred to the Forest Service.

3 (3) LAND TITLE RECORDS.—The U.S. Fish and
4 Wildlife Service shall provide to the Forest Service
5 records pertaining to land titles, surveys, and other
6 records pertaining to transferred real property and
7 facilities.

8 (g) TRANSFER OF PERSONAL PROPERTY.—

9 (1) IN GENERAL.—All federally owned personal
10 property present at the Center is hereby transferred
11 without consideration to the jurisdiction of the For-
12 est Service, except that with regard to personal
13 property acquired by the Fish and Wildlife Service
14 using funds provided by the Department of Labor
15 under the Job Corps program, the Forest Service
16 shall dispose of any such property in accordance
17 with the procedures stated in section 7(e) of the
18 1989 Interagency Agreement for Administration of
19 Job Corps Civilian Conservation Center Program, as
20 amended, between the Department of Labor and the
21 Department of the Interior.

22 (2) INVENTORY.—Not later than 60 days after
23 the date of enactment of this Act, the U.S. Fish and
24 Wildlife Service shall provide the Forest Service with

1 an inventory of all property and facilities at the Cen-
2 ter.

3 (3) PROPERTY INCLUDED.—Property under
4 this subsection includes, but is not limited to, build-
5 ings, office furniture and supplies, computers, office
6 equipment, vehicles, tools, equipment, maintenance
7 supplies, and publications.

8 (4) EXCLUSION OF PROPERTY.—At the request
9 of the authorized representative of the U.S. Fish
10 and Wildlife Service, the Forest Service may exclude
11 movable property from transfer based on a showing
12 by the U.S. Fish and Wildlife Service that the prop-
13 erty is needed for the mission of the U.S. Fish and
14 Wildlife Service, cannot be replaced in a cost-effec-
15 tive manner, and is not needed for management of
16 the Center.

17 **SEC. 4. COMPLIANCE WITH ENVIRONMENTAL AUTHORI-**
18 **TIES.**

19 (a) DOCUMENTATION OF EXISTING CONDITIONS.—

20 (1) IN GENERAL.—Within 60 days after the
21 date of enactment of this Act, the U.S. Fish and
22 Wildlife Service shall provide the Forest Service and
23 the Office of Job Corps, Employment and Training
24 Administration, Department of Labor, all reasonably
25 ascertainable documentation and information that

1 exists on the environmental condition of the land
2 comprising the Center.

3 (2) ADDITIONAL DOCUMENTATION.—The U.S.
4 Fish and Wildlife Service shall provide the Forest
5 Service and the Office of Job Corps, Employment
6 and Training Administration, Department of Labor,
7 with any additional documentation and information
8 regarding the environmental condition of the Center
9 as such documentation and information becomes
10 available.

11 (b) ACTIONS REQUIRED.—

12 (1) ASSESSMENT.—Within 120 days after the
13 date of enactment of this Act, the U.S. Fish and
14 Wildlife Service shall provide the Forest Service and
15 the Office of Job Corps, Employment and Training
16 Administration, Department of Labor, an assess-
17 ment, consistent with ASTM Standard E1527, indi-
18 cating what action, if any, is required on the Center
19 under any Environmental Authorities.

20 (2) MEMORANDUM OF AGREEMENT.—If the
21 findings of the environmental assessment indicate
22 that action is required under applicable Environ-
23 mental Authorities with respect to any portion of the
24 Center, the Forest Service and the U.S. Fish and

1 Wildlife Service shall enter into a memorandum of
2 agreement that—

3 (A) provides for the performance by the
4 U.S. Fish and Wildlife Service of the required
5 actions identified in the environmental assess-
6 ment; and

7 (B) includes a schedule for the timely com-
8 pletion of the required actions to be taken as
9 agreed to by U.S. Fish and Wildlife Service and
10 Forest Service.

11 (c) DOCUMENTATION OF ACTIONS.—After a mutually
12 agreeable amount of time following completion of the envi-
13 ronmental assessment, but not exceeding 180 days from
14 such completion, the U.S. Fish and Wildlife Service shall
15 provide the Forest Service and the Office of Job Corps,
16 Employment and Training Administration, Department of
17 Labor, with documentation demonstrating that all actions
18 required under applicable Environmental Authorities have
19 been taken that are necessary to protect human health and
20 the environment with respect to any hazardous substance,
21 pollutant, contaminant, hazardous waste, hazardous mate-
22 rial, or petroleum product or derivative of a petroleum
23 product on the Center.

24 (d) CONTINUATION OF RESPONSIBILITIES AND LI-
25 ABILITIES.—

1 (1) IN GENERAL.—The transfer of the Center
2 and the requirements of this section shall not in any
3 way affect the responsibilities and liabilities of the
4 U.S. Fish and Wildlife Service at the Center under
5 any applicable Environmental Authorities.

6 (2) ACCESS.—At all times after the date of en-
7 actment of this Act, the U.S. Fish and Wildlife
8 Service and its agents shall be accorded any access
9 to the Center that may be reasonably required to
10 carry out the responsibility or satisfy the liability re-
11 ferred to in paragraph (1).

12 (3) NO LIABILITY.—The Forest Service shall
13 not be liable under any applicable Environmental
14 Authorities for matters that are related directly or
15 indirectly to activities of the U.S. Fish and Wildlife
16 Service or the Department of Labor on the Center
17 occurring on or before the date of enactment of this
18 Act, including liability for—

19 (A) costs or performance of response ac-
20 tions required under the Comprehensive Envi-
21 ronmental Response, Compensation, and Liabil-
22 ity Act of 1980 (42 U.S.C. 9601, et seq.) at or
23 related to the Center; or

24 (B) costs, penalties, fines, or performance
25 of actions related to noncompliance with appli-

1 cable Environmental Authorities at or related to
2 the Center or related to the presence, release,
3 or threat of release of any hazardous substance,
4 pollutant, or contaminant, hazardous waste,
5 hazardous material, or petroleum product or de-
6 rivative of a petroleum product of any kind at
7 or related to the Center, including contamina-
8 tion resulting from migration.

9 (4) NO EFFECT ON RESPONSIBILITIES OR LI-
10 ABILITIES.—Except as provided in paragraph (3),
11 nothing in this title affects, modifies, amends, re-
12 peals, alters, limits or otherwise changes, directly or
13 indirectly, the responsibilities or liabilities under ap-
14 plicable Environmental Authorities with respect to
15 the Forest Service after the date of enactment of
16 this Act.

17 (e) OTHER FEDERAL AGENCIES.—Subject to the
18 other provisions of this section, a Federal agency that car-
19 ried or carries out operations at the Center resulting in
20 the violation of an environmental authority shall be re-
21 sponsible for all costs associated with corrective actions
22 and subsequent remediation.

23 **SEC. 5. PERSONNEL.**

24 (a) IN GENERAL.—

1 (1) EMPLOYMENT.—Notwithstanding section
2 3503 of title 5, United States Code, the Forest Serv-
3 ice will accept the transfer of eligible employees at
4 their current pay and grade levels to administer the
5 Center as of the date of enactment of this Act.

6 (b) TRANSFER-APPOINTMENT IN THE FOREST SERV-
7 ICE.—Eligible employees will transfer, without a break in
8 Federal service and without competition, from the Depart-
9 ment of the Interior, U.S. Fish and Wildlife Service, to
10 the Department of Agriculture, Forest Service, upon an
11 agreed date by both agencies.

12 (c) EMPLOYEE BENEFIT TRANSITION.—Employees
13 of the U.S. Fish and Wildlife Service who transfer to the
14 Forest Service—

15 (1) shall retain all benefits and/or eligibility for
16 benefits of Federal employment without interruption
17 in coverage or reduction in coverage, including those
18 pertaining to any retirement, Thrift Savings Plan
19 (TSP), Federal Employee Health Benefit (FEHB),
20 Federal Employee Group Life Insurance (FEGLI),
21 leave, or other employee benefits;

22 (2) shall retain their existing status with re-
23 spect to the Civil Service Retirement System
24 (CSRS) or the Federal Employees Retirement Sys-
25 tem (FERS);

1 (3) shall be entitled to carry over any leave time
2 accumulated during their Federal Government em-
3 ployment;

4 (4) shall retain their existing level of competi-
5 tive employment status and tenure; and

6 (5) shall retain their existing GM, GS, or WG
7 grade level and pay.

8 **SEC. 6. IMPLEMENTATION COSTS AND APPROPRIATIONS.**

9 (a) The U.S. Fish and Wildlife Service and the For-
10 est Service will cover their own costs in implementing this
11 Act.

12 (b) There is hereby authorized to be appropriated
13 such sums as may be necessary to carry out this Act.

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