

NORTHERN ARIZONA NATIONAL FOREST LAND  
EXCHANGE ACT OF 2003

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NOVEMBER 18, 2003.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2907]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2907) to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Northern Arizona National Forest Land Exchange Act of 2003”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land in the approximately 170 square miles of land commonly known as the “Yavapai Ranch” and located in Yavapai County, Arizona, are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as part of Prescott National Forest;

(2) the private land is owned by the Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., in an intermingled checkerboard pattern, with the United States or Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., owning alternate square mile sections of land or fractions of square mile sections;

(3) a significant portion of the private land within the checkerboard area (including the land located in or near the Pine Creek watershed, Juniper Mesa Wilderness Area, Haystack Peak, and the Luis Maria Baca Float No. 5) is located in environmentally valuable areas that possess attributes for public management, use, and enjoyment, including—

- (A) outdoor recreation;
- (B) preservation of stands of old growth forest;
- (C) largely unfragmented habitat for antelope, deer, elk, mountain lion, wild turkey, and other wildlife species;
- (D) scientific research;
- (E) rangeland;
- (F) cultural and archaeological resources; and
- (G) scenic vistas;

(4) the checkerboard ownership pattern of private and public land within Prescott National Forest impedes sound and efficient management of the intermingled National Forest System land;

(5) if the private land in the checkerboard area is subdivided or developed, the intermingled National Forest System land will become highly fragmented and lose much of the value of the land for wildlife habitat and future public access, use, and enjoyment;

(6) acquisition by the United States of certain parcels of land that have been offered by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., for addition to Prescott National Forest will serve important public objectives, including—

- (A) acquiring private land that meets the criteria for inclusion in the National Forest System in exchange for land with lower public, environmental, and ecological values;
- (B) consolidating a large area of National Forest System land to preserve—

- (i) permanent public access, use, and enjoyment of the land; and
- (ii) efficient management of the land;

- (C) minimizing cash outlays by the United States to achieve the objectives described in subparagraphs (A) and (B); and

- (D) reducing administrative costs to the United States through—

- (i) consolidation of Federal land holdings for more efficient land management and planning;
- (ii) elimination of approximately 350 miles of boundary between private land and the Federal parcels; and
- (iii) reduction of right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land;

(7) parcels of National Forest System land have been identified for conveyance to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., through a land exchange because the parcels—

- (A) have significantly lower recreational, wildlife, ecological, and other public purpose values than the land to be acquired by the United States; and

- (B) are encumbered by special use permits and rights-of-way for a variety of purposes (including summer youth camps, municipal water treatment facilities, sewage treatment facilities, city parks, and airport-related facilities) that—

- (i) limit the usefulness of the parcels for general National Forest System purposes; but

- (ii) are logical for pass-through conveyances from Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., to the permit or right-of-way holders; and

(8) because there are limited water resources on the National Forest System land available for future water users and the unlimited use of the water resources would have adverse long-term impacts on existing and future water users and State water right holders and the Verde River and National Forest System land conveyed by the United States, limits on water use should be established on the National Forest System land that—

- (A) is located near the communities of Camp Verde, Cottonwood, and Clarkdale; and

- (B) is to be conveyed by the United States to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, and facilitate the exchange of Federal land and non-Federal land between the United States, Yavapai Ranch Limited Partnership, and the Northern Yavapai, L.L.C.

### SEC. 3. DEFINITIONS.

In this Act:

- (1) **CAMP.**—The term “camp” means Camp Pearlstein, Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and YoungLife Lost Canyon camps in the State of Arizona.
- (2) **FEDERAL LAND.**—The term “Federal land” means the land described in section 4(a)(2).
- (3) **MANAGEMENT PLAN.**—The term “Management Plan” means the land and resource management plan for Prescott National Forest.
- (4) **NON-FEDERAL LAND.**—The term “non-Federal land” means the approximately 35,000 acres of non-Federal land located within the boundaries of Prescott National Forest, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Non-Federal Lands”, dated April 2002.
- (5) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.
- (6) **YAVAPAI RANCH.**—The term “Yavapai Ranch” means—
  - (A) the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership; and
  - (B) the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

### SEC. 4. LAND EXCHANGE.

(a) **CONVEYANCE OF FEDERAL LAND BY THE UNITED STATES.**—

(1) **IN GENERAL.**—On receipt of an offer from Yavapai Ranch to convey the non-Federal land, the Secretary shall convey to Yavapai Ranch by deed acceptable to Yavapai Ranch, subject to easements, rights-of-way, utility lines, and any other valid encumbrances on the Federal land in existence on the date of enactment of this Act and any other reservations that may be agreed to by the Secretary and Yavapai Ranch, all right, title, and interest of the United States in and to the Federal land described in paragraph (2).

(2) **DESCRIPTION OF FEDERAL LAND.**—The Federal land referred to in paragraph (1) shall consist of the following:

(A) Certain land comprising approximately 15,300 acres located in Yavapai County, Arizona, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Area Federal Lands”, dated April 2002.

(B) Certain land in the Coconino National Forest, Coconino County Arizona—

(i) comprising approximately 1,500 acres located in Coconino National Forest, Coconino County, Arizona, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Flagstaff Federal Lands-Airport Parcel”, dated April 2002; and

(ii) comprising approximately 28.26 acres in 2 separate parcels, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Flagstaff Federal Lands—Wetzel School and Mt. Elden Parcels”, dated September 2002.

(C) Certain land referred to as Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels numbers 2, 3, and 4, comprising approximately 950 acres, located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Williams Federal Lands”, dated April 2002.

(D) Certain land comprising approximately 2,200 acres located in Prescott National Forest, Yavapai County, Arizona, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Camp Verde Federal Land—General Crook Parcel”, dated April 2002.

(E) Certain land comprising approximately 820 acres located in Prescott National Forest in Yavapai County, Arizona, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Camp Verde Federal Lands—Cottonwood/Clarkdale Parcel”, dated April 2002.

(F) Certain land comprising approximately 237.5 acres located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Younglife/Lost Canyon”, dated April 2002.

(G) Certain land comprising approximately 200 acres located in Prescott National Forest, Yavapai County, Arizona, and including Friendly Pines, Patterdale Pines, Camp Pearlstein, Pine Summit, and Sky Y, as generally depicted on the map entitled “Yavapai Ranch Land Exchange Prescott Federal Lands—Summer Youth Camp Parcels”, dated April 2002.

(H) Perpetual, unrestricted, and nonexclusive easements that—

(i) run with and benefit land owned by or conveyed to Yavapai Ranch across certain land of the United States;

(ii) are for the purposes of—

(I) operating, maintaining, repairing, improving, and replacing electric power lines or water pipelines (including related storage tanks, valves, pumps, and hardware); and

(II) providing rights of reasonable ingress and egress necessary for the activities described in subclause (I);

(iii) are 20 feet in width; and

(iv) are located 10 feet on either side of each line depicted on the map entitled “Yavapai Ranch Land Exchange YRLP Acquired Easements for Water Lines”, dated April 2002.

(3) CONDITIONS.—

(A) PERMITS.—Permits or other legal occupancies of the Federal land by third parties in existence on the date of transfer of the Federal land to Yavapai Ranch shall be addressed in accordance with—

(i) part 254.15 of title 36, Code of Federal Regulations (or any successor regulation); and

(ii) other applicable laws (including regulations).

(B) ESTABLISHMENT OF CONSERVATION EASEMENTS ON CERTAIN PARCELS.—

(i) IN GENERAL.—To conserve water in the Verde Valley, Arizona, and to minimize the adverse impacts from future development of the parcels described in subparagraphs (D) and (E) of paragraph (2) on current and future users of water and holders of water rights in existence on the date of enactment of this Act and the Verde River and National Forest System land retained by the United States, the United States shall limit in perpetuity the use of water on the parcels by establishing conservation easements that—

(I) prohibit golf course development on the parcels;

(II) require that public parks and greenbelts on the parcels be watered with treated effluent;

(III)(aa) with respect to the parcel described in paragraph (2)(D), limit total post-exchange water use to not more than 700 acre-feet of water per year; and

(bb) with respect to the parcel described in paragraph (2)(E), limit total post-exchange water use to not more than 150 acre-feet of water per year; and

(IV) require that any water used for the parcels not be withdrawn from wells perforated in the Holocene alluvium of the Verde River unless supplied by municipalities or private water companies; however any water supplied by municipalities or private water companies shall count toward the water use limitations set out in the preceding subclauses (III)(aa) and (III)(bb).

(ii) RECORDATION.—The conservation easements described in clause (i) shall be recorded in the title to parcels described in subparagraphs (D) and (E) of paragraph (2) that are conveyed by the Secretary to Yavapai Ranch.

(iii) SUBSEQUENT CONVEYANCE.—

(I) IN GENERAL.—On acquisition of title to the parcels described in subparagraphs (D) and (E) of paragraph (2), Yavapai Ranch may convey all or a portion of the parcels to 1 or more successors-in-interest.

(II) WATER USE APPORTIONMENT.—A conveyance under subclause (I) shall, in accordance with the terms described in clause (i), include a recorded and binding agreement on the amount of water available for use on the parcel or portion of the parcel conveyed, as determined by the Yavapai Ranch.

(iv) ENFORCEMENT.—The Secretary shall enter into an assignment with a political subdivision of the State of Arizona authorizing the political subdivision to enforce the terms described in clause (i) in any manner provided by law. Until such time as the Secretary executes the assignment, the Secretary shall hold the conservation easements.

(v) LIABILITY.—

(I) IN GENERAL.—Any action for a breach of the terms of the conservation easements described in clause (i) shall be against the owner or owners of the parcel or portion of the parcel, at the time of the breach, whose action or failure to act has resulted in the breach.

(II) HOLD HARMLESS.—To the extent that the United States or a successor-in-interest to the United States no longer holds title to the parcels or any portion of the parcels described in subparagraph

(D) or (E) of paragraph (2), the United States or such successor-in-interest shall be held harmless from damages or injuries attributable to any breach of the terms of the conservation easements described in clause (i) by a subsequent successor-in-interest.

(b) CONVEYANCE OF NON-FEDERAL LAND BY YAVAPAI RANCH.—

(1) IN GENERAL.—On receipt of title to the Federal land, Yavapai Ranch shall simultaneously convey to the United States, by deed acceptable to Secretary and subject to any encumbrances, all right, title, and interest of Yavapai Ranch in and to the non-Federal land.

(2) EASEMENTS.—

(A) IN GENERAL.—The conveyance of non-Federal land to the United States under paragraph (1) shall be subject to the reservation of—

(i) perpetual and unrestricted easements and water rights that run with and benefit the land retained by Yavapai Ranch for—

(I) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 wells in existence on the date of enactment of this Act;

(II) related storage tanks, valves, pumps, and hardware; and

(III) pipelines to points of use; and

(ii) easements for reasonable ingress and egress to accomplish the purposes of the easements described in clause (i).

(B) EXISTING WELLS.—

(i) IN GENERAL.—Each easement for an existing well shall be—

(I) 40 acres in area; and

(II) to the maximum extent practicable—

(aa) centered on the existing well; and

(bb) located in the same square mile section of land.

(ii) LIMITATION.—Within a 40-acre easement described in clause (i), the United States and any permittees or licensees of the United States shall be prohibited from undertaking any activity that interferes with the use of the wells by Yavapai Ranch, without the written consent of Yavapai Ranch.

(iii) RESERVATION OF WATER FOR THE UNITED STATES.—The United States shall be entitled to  $\frac{1}{2}$  the production of each existing or replacement well, not to exceed a total of 3,100,000 gallons of water annually, for watering wildlife and stock and for other National Forest System purposes from the 3 wells.

(C) REASONABLE ACCESS.—Each easement for ingress and egress shall be at least 20 feet in width.

(D) LOCATION.—The locations of the easements and wells shall be the locations generally depicted on a map entitled “Yavapai Ranch Land Exchange YRLP Reserved Easements for Waterlines and Wells”, dated April 2002.

(c) LAND TRANSFER PROBLEMS.—

(1) FEDERAL LAND.—If a parcel of Federal land (or a portion of the parcel) cannot be conveyed to Yavapai Ranch because of the presence of hazardous materials or if the proposed title to a parcel of Federal land (or a portion of the parcel) is unacceptable to Yavapai Ranch because of the presence of threatened or endangered species, cultural or historic resources, unpatented mining claims, or other third party rights under public land laws—

(A) the parcel of Federal land or portion of the parcel shall be excluded from the exchange; and

(B) the non-Federal land shall be adjusted in accordance with section 5(c).

(2) NON-FEDERAL LAND.—If 1 or more of the parcels of non-Federal land or a portion of such a parcel cannot be conveyed to the United States because of the presence of hazardous materials or if the proposed title to a parcel or a portion of the parcel is unacceptable to the Secretary—

(A) the parcel of non-Federal land or portion of the parcel shall be excluded from the exchange; and

(B) the Federal land shall be adjusted in accordance with section 5(c).

(d) CONVEYANCE OF FEDERAL LAND TO CITIES AND CAMPS.—

(1) IN GENERAL.—Following the acquisition of the Federal land, Yavapai Ranch shall convey to the cities of Flagstaff, Williams, and Camp Verde and the camps the parcels of Federal land or portions of parcels located in or near the cities or camps under any terms agreed to by Yavapai Ranch, the cities, and camps before the date on which the exchange is completed.

(2) DELETION FROM EXCHANGE.—If Yavapai Ranch and the cities or camps referred to in paragraph (1) have not agreed to the terms and conditions of a subsequent conveyance of a parcel or portion of a parcel of Federal land before the

completion of the exchange, the Secretary, on notification by Yavapai Ranch, the cities, or camps, shall delete the parcel or any portion of the parcel from the exchange. Any parcel or portion of a parcel to be deleted may be configured by the Secretary to leave the United States with manageable post-exchange land and boundaries.

(3) EASEMENTS.—In accordance with section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the United States shall reserve easements in any land transferred to Yavapai Ranch.

**SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.**

(a) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land to be exchanged under this Act—

- (1) shall be equal, as determined by the Secretary; or
- (2) if the values are not equal, shall be equalized in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The values of the Federal land and non-Federal land shall be determined by appraisals using the appraisal standards in—

- (A) the Uniform Appraisal Standards for Federal Land Acquisitions, fifth edition (December 20, 2000); and
- (B) the Uniform Standards of Professional Appraisal Practice.

(2) APPROVAL.—In accordance with part 254.9(a)(1) of title 36, Code of Federal Regulations (or any successor regulation), the appraiser shall be—

- (A) acceptable to the Secretary and Yavapai Ranch; and
- (B) a contractor, the clients of which shall be the Secretary and Yavapai Ranch.

(3) REQUIREMENTS.—During the appraisal process the appraiser shall—

- (A) consider the effect on value of the Federal land or non-Federal land because of the existence of encumbrances on each parcel, including—
  - (i) permitted uses on Federal land that cannot be reasonably terminated before the appraisal; and
  - (ii) facilities on Federal land that cannot be reasonably removed before the appraisal; and
- (B) determine the value of each parcel of Federal land and non-Federal land (including the value of each individual section of the intermingled Federal and non-Federal land of the Yavapai Ranch) as an assembled transaction consistent with the applicable provisions of parts 254.5 and 254.9(b)(1)(v) of title 36, Code of Federal Regulations (or any successor regulation).

(4) DISPUTE RESOLUTION.—A dispute relating to the appraised values of the Federal land or non-Federal land following completion of the appraisal shall be processed in accordance with—

- (A) section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and
- (B) part 254.10 of title 36, Code of Federal Regulations (or any successor regulation).

(5) APPRAISAL PERIOD.—After the final appraised values of the Federal land and non-Federal land have been reviewed and approved by the Secretary or otherwise determined in accordance with the requirements of paragraph (4), the final appraised values—

- (A) shall not be reappraised or updated by the Secretary before the completion of the land exchange; and
- (B) shall be considered to be the values of the Federal land and non-Federal land on the date of the transfer of title.

(6) AVAILABILITY.—In accordance with the policy of the Forest Service, and to ensure the timely and full disclosure of the appraisals to the public, the appraisals approved by the Secretary shall be made available for public inspection in the Offices of the Supervisors for Prescott, Coconino, and Kaibab National Forests.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—

- (A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 4, the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—An adjustment referred to in subparagraph (A) shall be accomplished by beginning at the east boundary of section 30, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and adding to the Federal land in  $\frac{1}{8}$  section increments (N-S 64th line) and lot lines across the section, while deleting in the same increments portions of sections 19 and 31, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs north to south across the sections.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 4, the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—Adjustments under subparagraph (A) shall be made in the following order:

(i) Beginning at the south boundary of section 31, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, by adding to the non-Federal land to be conveyed to the United States in  $\frac{1}{8}$  section increments (E-W 64th line) while deleting from the conveyance to Yavapai Ranch Federal land in the same incremental portions of section 32, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36, in T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east to west across the sections.

(ii) By deleting the following parcels:

(I) The Wetzel School parcel identified on the map described in section 4(a)(2)(B)(ii).

(II) The Williams Sewer parcel identified on the map described in section 4(a)(2)(C).

(III) That part of the Williams Railroad parcel identified on the map described in section 4(a)(2)(C) that lies south of Business I-40.

(IV) A portion of the Cottonwood/Clarkdale Federal Lands identified on the map described in Section 4(a)(2)(E) and further described as the  $S\frac{1}{2}S\frac{1}{2}$  of Section 8, Township 15 North, Range 3 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(V) The Buckskinner Park parcel identified on the map described in section 4(a)(2)(C).

(VI) Approximately 316 acres of the Camp Verde Federal Land-General Crook Parcel identified on the map described in section 4(a)(2)(D) and further described as Lots 1, 5, and 6 and the  $NE\frac{1}{4}NE\frac{1}{4}$  of Section 26, and the  $N\frac{1}{2}N\frac{1}{2}$  of Section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(VII) A portion of the Cottonwood/Clarkdale Federal Lands identified on the map described in section 4(a)(2)(E) and further described as the  $N\frac{1}{2}S\frac{1}{2}$  of Section 8, Township 15 North, Range 3 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(VIII) Approximately 314 acres of the Camp Verde Federal Land-General Crook Parcel identified on the map described in section 4(a)(2)(D) and further described as Lots 2, 7, 8 and 9 and the  $SE\frac{1}{4}NE\frac{1}{4}$  of Section 26, and the  $S\frac{1}{2}N\frac{1}{2}$  of Section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(IX) The Mt. Elden parcel identified on the map described in section 4(a)(2)(B)(ii).

(C) MODIFICATIONS.—By mutual agreement by the Secretary and the Yavapai Ranch, the land and acreage in subclauses (I) through (IX) may be modified to conform with a survey approved by the Bureau of Land Management or to leave the United States with manageable post-exchange land and boundaries.

(3) ADDITIONAL EQUALIZATION OF VALUES.—If, after the values are adjusted in accordance with paragraph (1) or (2), the values of the Federal land and non-

Federal land are not equal, then the Secretary and Yavapai Ranch may by agreement adjust the acreage of the Federal land and non-Federal land until the values of that land are equal.

(d) CASH EQUALIZATION.—

(1) IN GENERAL.—After the values of the non-Federal and Federal land are equalized to the maximum extent practicable under subsection (c), any balance due the Secretary or Yavapai Ranch shall be paid—

(A) through cash equalization payments under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(B) in accordance with standards established by the Secretary and Yavapai Ranch.

(2) LIMITATION.—

(A) ADJUSTMENTS.—If the value of the Federal land exceeds the value of the non-Federal land by more than \$50,000, the Secretary and Yavapai Ranch shall, by agreement, delete additional Federal land from the exchange until the values of the Federal land and non-Federal land are equal.

(B) DEPOSIT.—Any amounts received by the United States under this Act—

(i) shall be deposited in a fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the “Sisk Act”); and

(ii) shall be available, without further appropriation, for the acquisition of land or interests in land for National Forest System purposes in the State of Arizona.

**SEC. 6. MISCELLANEOUS PROVISIONS.**

(a) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) WITHDRAWAL OF FEDERAL LAND.—The Federal land is withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), until the date on which the exchange of Federal land and non-Federal land is completed.

(c) SURVEYS, INVENTORIES, AND CLEARANCES.—Before completing the exchange of Federal land and non-Federal land under this Act, the Secretary shall carry out land surveys and preexchange inventories, clearances, reviews, and approvals relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and floodplains.

(d) COSTS OF IMPLEMENTING THE EXCHANGE.—

(1) IN GENERAL.—

(A) The United States shall bear the costs or other responsibilities or requirements associated with land surveys, title searches, archeological and cultural surveys and salvage, removal of encumbrances and curing title deficiencies necessary to bring the Federal land into a condition where it is acceptable for exchange purposes.

(B) Yavapai Ranch shall bear the costs or other responsibilities or requirements associated with land surveys, title searches, archeological and cultural surveys and salvage, removal of encumbrances and curing title deficiencies necessary to bring the non-Federal land into a condition where it is acceptable for exchange purposes.

(2) INELIGIBLE REIMBURSEMENTS.—No amount paid by Yavapai Ranch under this subsection shall be eligible for reimbursement under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

(e) TIMING.—It is the intent of Congress that the exchange of Federal land and non-Federal land directed by this Act be completed not later than 18 months after the date of enactment of this Act.

(f) CONTRACTORS.—

(1) IN GENERAL.—If the Secretary lacks adequate staff or resources to complete the exchange by the date specified in subsection (e), the Yavapai Ranch may contract with independent third-party contractors to carry out any work necessary to complete the exchange by that date, subject to the mutual agreement of the Secretary and the Yavapai Ranch on the contractor or contractors, scope of work, estimated cost of work, and approval of any such work by the Secretary.

(2) REIMBURSEMENT.—In the event that Yavapai Ranch contracts with independent third party contractors to carry out or complete any responsibilities or requirements that would be performed by the Secretary but for the lack of adequate staff or resources, then the Secretary shall reimburse Yavapai Ranch for Yavapai Ranch's costs or expenses for such contractors in accordance with sec-



tion 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

**SEC. 7. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.**

(a) **IN GENERAL.**—Non-Federal land acquired by the United States under this Act—

- (1) shall become part of the Prescott National Forest; and
- (2) shall be administered by the Secretary in accordance with—
  - (A) this Act;
  - (B) the laws (including regulations) applicable to the National Forest System; and
  - (C) other authorized uses of the National Forest System.

(b) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Acquisition of the non-Federal land under this Act shall not require a revision or amendment to the Management Plan.

(2) **AMENDMENT OR REVISION.**—If the Management Plan is amended or revised after the date of acquisition of non-Federal land under this Act, the Management Plan shall be amended to reflect the acquisition of the non-Federal land.

(c) **POST-EXCHANGE MANAGEMENT OF CERTAIN LAND.**—

(1) **IN GENERAL.**—On acquisition by the United States, the non-Federal land acquired by the United States and any adjoining National Forest System land shall be managed in accordance with—

- (A) paragraphs (2) through (6); and
- (B) the laws (including regulations) generally applicable to National Forest System land.

(2) **PROTECTION OF NATURAL RESOURCES.**—The non-Federal land shall be managed in a manner that maintains the species, character, and natural values of the land, including—

- (A) deer, pronghorn antelope, wild turkey, mountain lion, and other resident wildlife and native plant species;
- (B) suitability for livestock grazing; and
- (C) aesthetic values.

(3) **GRAZING.**—Each area located in the Yavapai Ranch grazing allotment as of the date of enactment of this Act shall—

- (A) remain in the Yavapai Ranch grazing allotment; and
- (B) continue to be subject to grazing in accordance with the laws (including regulations) generally applicable to domestic livestock grazing on National Forest System land.

(4) **ROADS.**—

(A) **IMPROVEMENT AND MAINTENANCE.**—The Secretary shall maintain or improve a system of roads and trails on the non-Federal land to provide opportunities for hunting, motorized and nonmotorized recreation, and other uses of the land by the public.

(B) **PUBLIC ACCESS ROAD.**—

(i) **CONSTRUCTION.**—The Secretary shall improve or construct a public access road linking Forest Road 7 (Pine Creek Road) to Forest Road 1 (Turkey Canyon Road) through portions of sections 33, 32, 31, and 30, T. 19 N., R. 6 W., Gila and Salt River Base and Meridian.

(ii) **EXISTING ROAD.**—The existing road linking Pine Creek and Gobbler Knob shall—

- (I) until the date on which the new public access road is completed, remain open; and
- (II) after the date on which the new public access road is completed, be obliterated.

(C) **EASEMENTS.**—

(i) **IN GENERAL.**—On completion of the land exchange under this Act, the Secretary and Yavapai Ranch shall grant each other at no charge reciprocal easements for ingress, egress, and utilities across, over, and through—

(I)(aa) the routes depicted on the map entitled “Yavapai Ranch Land Exchange Road and Trail Easements—Yavapai Ranch Area” dated April 2002; and

(bb) any other inholdings retained by the United States or Yavapai Ranch; or

(II) any relocated routes that are agreed to by the Secretary and Yavapai Ranch.

(ii) **REQUIREMENTS.**—An easement described in clause (i)—

- (I) shall be unlimited, perpetual, and nonexclusive in nature; and
- (II) shall run with and benefit the land of the grantee.

- (iii) RIGHTS OF GRANTEE.—The rights of the grantee shall extend to—
  - (I) any successors-in-interest, assigns, and transferees of Yavapai Ranch; and
  - (II) in the case of the Secretary, members of the general public, as determined to be appropriate by the Secretary.
- (5) TIMBER HARVESTING.—
  - (A) IN GENERAL.—Except as provided in subparagraph (B), timber harvesting for commodity production shall be prohibited on the non-Federal land.
  - (B) EXCEPTIONS.—Timber harvesting may be conducted on the non-Federal land if the Secretary determines that timber harvesting is necessary—
    - (i) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques;
    - (ii) to protect or enhance grassland habitat, watershed values, native plants, trees, and wildlife species; or
    - (iii) to improve forest health.
  - (6) WATER IMPROVEMENTS.—Nothing in this Act prohibits the Secretary from authorizing or constructing new water improvements in accordance with the laws (including regulations) applicable to water improvements on National Forest System land for—
    - (A) the benefit of domestic livestock or wildlife management;
    - (B) the improvement of forest health or forest restoration; or
    - (C) other National Forest purposes.
- (d) MAPS.—
  - (1) IN GENERAL.—The Secretary and Yavapai Ranch may correct any minor errors in the maps of, legal descriptions of, or encumbrances on the Federal land or non-Federal land.
  - (2) DISCREPANCY.—In the event of any discrepancy between a map and legal description, the map shall prevail unless the Secretary and Yavapai Ranch agree otherwise.
  - (3) AVAILABILITY.—All maps referred to in this Act shall be on file and available for inspection in the Office of the Supervisor, Prescott National Forest, Prescott, Arizona.
- (e) EFFECT.—Nothing in this Act precludes, prohibits, or otherwise restricts Yavapai Ranch from subsequently granting, conveying, or otherwise transferring title to the Federal land after its acquisition of the Federal land.

#### SEC. 8. CONVEYANCE OF ADDITIONAL LAND.

- (a) IN GENERAL.—The Secretary shall convey to an individual or entity that represents the majority of landowners with encroachments on the lot by quitclaim deed the parcel of land described in subsection (b).
- (b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.
- (c) AMOUNT OF CONSIDERATION.—In exchange for the land described in subsection (b), the individual or entity acquiring the land shall pay to the Secretary consideration in the amount of—
  - (1) \$2500; plus
  - (2) any costs of re-monumenting the boundary of land.
- (d) TIMING.—
  - (1) IN GENERAL.—Not later than 90 days after the date on which the Secretary receives a power of attorney executed by the individual or entity acquiring the land, the Secretary shall convey to the individual or entity the land described in subsection (b).
  - (2) LIMITATION.—If, by the date that is 270 days after the date of enactment of this Act, the Secretary does not receive the power of attorney described in paragraph (1)—
    - (A) the authority provided under this subsection shall terminate; and
    - (B) any conveyance of the land shall be made under Public Law 97–465 (16 U.S.C. 521c et seq.).

#### SEC. 9. COMPENSATION FOR PERSONS HOLDING GRAZING PERMITS.

Persons holding grazing permits for land transferred into private ownership under this Act shall be compensated in accordance with section 402(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(g)).

## PURPOSE OF THE BILL

The purpose of H.R. 2907 is to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

## BACKGROUND AND NEED FOR LEGISLATION

Located at the north end of the Prescott National Forest, the "Yavapai Ranch" is approximately 170 square miles in area in north central Arizona. The U.S. Forest Service of the Department of Agriculture and Yavapai Ranch Limited Partnership ("YRLP") currently own alternate square mile sections of the ranch in an almost exact "checkerboard" land ownership pattern, the last large mixed ownership pattern in Arizona.

The land exchange authorized in H.R. 2907 would consolidate the checkerboard so that both the Forest Service and YRLP would have more manageable lands in the future. In the exchange, YRLP will convey approximately 35,000 acres (approximately 55 square miles) to the Forest Service. This will enable the Forest Service to block up approximately 110 square miles of land (totaling over 70,000 acres) into Forest Service ownership for permanent public use and enjoyment. The lands being acquired by the Forest Service include significant stands of old growth ponderosa pine and alligator juniper trees, important undeveloped habitat for pronghorn antelope and other wildlife species, and a portion of the upper watershed of the Verde River. Additionally, the land being consolidated into Forest Service ownership lies adjacent to the Juniper Mesa Wilderness area, and comprises largely undeveloped and open space. H.R. 2907 also addresses future water use. The exchange will reduce the subdividable and developable land base in the upper Verde River watershed (Big Cheno aquifer) by roughly 20,000 acres and thereby protect water resources and flows. The Committee notes that the Arizona Department of Game and Fish has reviewed the lands to be exchanged, and believes the land exchange is beneficial from a wildlife standpoint.

In return for receiving the 35,000 acres of the Yavapai Ranch's holdings, the Forest Service will convey to the Yavapai Ranch: (1) approximately 15,300 acres of land on the ranch checkerboard which is generally of lesser value than that acquired by the Forest Service; and (2) approximately 5,900 acres in or near the communities of Flagstaff, Williams, Camp Verde, Clarkdale, Cottonwood, and Prescott. Many of the lands being conveyed to the Yavapai Ranch in those communities are currently encumbered by Forest Service special use permits for municipal airports, water and sewage treatment facilities, parks, a golf course and other municipal or summer camp uses. Those lands will be "passed through" to the municipalities and summer camps so that they can own and use the lands they currently lease for the Forest Service.

For the reasons outlined above, the Committee believes it is in the public interest to authorize and direct the land exchange set forth in the bill. Congress is legislating this land exchange because the Forest Service has indicated it is too complex, and involves too many parcels of land (located in three national forests) to process administratively in any reasonable time frame. More precisely, the Forest Service testified at the Committee's hearing on October 21,

2003, that it could take seven to eight years, or longer, to process the exchange through administrative means. In addition, the Administration testified that legislating the exchange will result in considerable cost savings to taxpayers, including savings from reduced boundary administration in the future, elimination of special use permits and administration, avoided road and other access costs (if the current checkerboard were developed), and a fifty percent or greater reduction in exchange processing costs if the exchange is legislated.

In terms of the exchange process, the land exchange directed by H.R. 2907 requires: (1) fair market value appraisal standards (The Uniform Standards of Appraisal for Federal Land Acquisitions and The Uniform Standards of Professional Appraisal Practice); (2) formal review and approval of all appraisals by the Secretary of Agriculture; (3) completion of standard surveys, inventories, clearances and approvals relating to threatened and endangered species, cultural and historic resources, hazardous materials, and wetlands and floodplains; and (4) traditional title reviews and analyses, which must be approved by the Forest Service. These requirements are all preconditions to consummation of the exchange.

Finally, H.R. 2907 requires that the lands ultimately exchanged will be of exact equal value, either by making adjustments in the federal and non-federal lands exchanged, or through cash equalization.

#### COMMITTEE ACTION

H.R. 2907 was introduced on July 25, 2003, by Congressman Rick Renzi (R-AZ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On October 21, 2003, the Subcommittee held a hearing on the bill. On October 29, 2003, the Full Resources Committee met to consider the bill. The bill was discharged from the Subcommittee by unanimous consent. Congressman Renzi offered an amendment in the nature of a substitute making minor changes. The amendment was adopted by voice vote. The bill, as amended, by then ordered favorably reported to the House of Representatives by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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 this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has in-

cluded in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill “could affect direct spending, but by insignificant amounts.”

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 17, 2003.*

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2907, the Northern Arizona National Forest Land Exchange Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 2907—Northern Arizona National Forest Land Exchange Act  
of 2003*

CBO estimates that implementing H.R. 2907 would cost about \$1 million over the 2004–2005 period, assuming the availability of appropriated funds. The bill could affect direct spending, but by insignificant amounts. H.R. 2907 would not affect revenues. H.R. 2907 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on State, local, or tribal governments. Enacting this legislation would benefit several local governments that would receive federal land as a result of this exchange.

H.R. 2907 would authorize the Secretary of Agriculture to exchange approximately 21,000 acres of federal lands in Arizona for roughly 35,000 acres of privately owned land in that state. If the values of those lands are not the same, the parties could exchange cash equalization payments of up to \$50,000. The Secretary could spend any amounts received from such payments to acquire other lands and interests in Arizona. H.R. 2907 would direct the Secretary to reimburse holders of grazing permits for certain costs if their grazing rights are affected by the proposed exchange. Finally,

H.R. 2907 would direct the Secretary to convey a small parcel of land in Arizona to landowners who have encroached upon that land. In exchange, those landowners would pay \$2,500 plus certain other costs.

Based on information from the Forest Service, CBO estimates that the agency would spend about \$1 million over the 2004–2005 period for appraisals and other administrative costs associated with the proposed land exchange, assuming the availability of appropriated funds. According to the Forest Service, the federal lands to be exchanged and conveyed currently generate no significant receipts and are not expected to do so over the next 10 years. Hence, we estimate that completing the proposed transactions would not significantly affect offsetting receipts (a credit against direct spending). Finally, based on information from the agency, we estimate that the cost of reimbursing grazing permit holders as authorized under the bill would be negligible.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

## DISSENTING VIEWS

I oppose H.R. 2907 in its present form.

This trade will adversely affect towns and communities in the arid Southwest, where water is a scarce resource. Putting more property into private hands in an area where there is an inadequate supply of water will harm current residents and businesses.

While certain aspects of the trade are acceptable, others are not. I support the provisions that would trade certain scattered parcels held by the Yavapai Ranch Company for land near an existing airport in Flagstaff, Arizona. These aspects of the trade are reasonable and necessary.

This trade goes awry in my view with the inclusion of several parcels, one near Cottonwood and Clarkdale and another near Camp Verde, Arizona. These parcels are currently held by federal land management agencies who manage the land for grazing and other uses, such as recreation and wildlife habitat.

The communities of Cottonwood, Clarkdale and Camp Verde are already suffering from a lack of water and this situation has no foreseeable end in sight. Moreover, the communities already contain more private land than can possibly be reasonably developed, given the paucity of water. There is already plenty of private land available for development in Camp Verde and Clarkdale/Cottonwood. It is a lack of water, not land, that is the main hindrance to increased development in the area.

While the bill seeks to place a limit on water withdrawals on these parcels, I do not believe it goes far enough. The amount the bill will allow to be pumped is still an enormous amount when compared with the total amount the area's water company is able to deliver to area residents.

These properties lie uphill in the watershed from the communities mentioned above. Any pumping above them in the watershed will further inhibit their ability to find water for current area residents and businesses.

I am concerned that there is an inherent unfairness present in this land exchange. While one rancher, Mr. Ruskin, will be greatly financially enriched by this trade, another rancher, Mr. Tony Groseta, will lose his livelihood. He grazes cattle on one of the federal parcels to be turned over to private hands. He is not being adequately compensated for the loss of his livelihood in my view. Although a grazing permit is not a "right," and have not required compensation when taken away, grazing permits do have value. They are recognized by financial institutions and the IRS to have value, thus enabling ranchers to receive loans based on their value. It is unfair to provide an opportunity for one party to make millions of dollars while another will lose his business entirely.

The Cottonwood/Clarkdale parcel of federal land is grossly undervalued. Lack of access on this parcel lowers the value of the land,

thus lowering the amount the taxpayers will receive in trade for them. The value of these lands will skyrocket as soon as the federal lands become private, but the public will not benefit from the increase in price. The only party who will benefit will be Mr. Ruskin. Because the land is so devalued by the lack of currently available access, the federal government will basically be giving this parcel away.

The majority of the conflict in this land exchange comes from the inclusion of the Cottonwood/Clarkdale and Camp Verde parcels. Because of this, I oppose the inclusion of these two parcels in the trade.

Part of the fundamental problem with legislated land exchanges is that we are put into a position where we must judge whether a public benefit exists, without the benefit of a public process. People in our districts feel disconnected from the process in Washington on legislated land exchanges. How can we determine that these trades are in the public interest, if we have not heard from the affected public? If the testimony of land management agency officials is to be believed, the administrative process takes too long and costs too much money. Therefore, I call on my colleagues to initiate hearings on the administrative land trade issue. We need many questions answered about this process: How long does the administrative process really take? How much does the administrative process cost? Are agencies making administrative land trades a priority? Are they too controversial? If so, why? Can controversial issues be worked out through the administrative process? Do agencies lack financial resources to carry out administrative trades?

At a minimum, if we are going to legislate land trades, certain things must be done to ensure a fair and open process. I call on my colleagues to conduct public hearings in the impacted area prior to or immediately after introducing land exchange legislation. The testimony of these public hearings should be made available to other Members of Congress, such that we may be well-informed as to the public interest being served by legislating such trades.

To sum up: There are problems with certain aspects of the Northern Land Exchange Act such that I must oppose the bill. In addition, I urge Members to hold hearings in affected areas and submit findings prior to land trade legislation hearings in Committee, so we may determine the public interest of any land exchange.

Lastly, hearings should be held in the Resources Committee to determine what problems, whether real or only perceived, exist with the administrative land exchange process.

RAÚL M. GRIJALVA.