

## Calendar No. 55

109TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
109-40

### NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARTNERSHIP ACT OF 2005

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MARCH 16, 2005.—Ordered to be printed

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Mr. DOMENICI, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 161]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 161) 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, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE MEASURE

The purpose of S. 161 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

Located at the north end of the Prescott National Forest the Yavapai Ranch covers approximately 170 square miles in north-central Arizona. The Forest Service and the ranch owner, Yavapai Ranch Limited Partnership (YRLP), currently own alternate square-mile sections of the ranch in “checkerboard” land ownership pattern. The Yavapai Ranch is the last large mixed-ownership pattern in Arizona.

The land exchange authorized in S. 161 would consolidate the checkerboard so that both the Forest Service and YRLP would have more manageable lands in the future. Under 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 to be 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 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. S. 161 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.

In return for receiving the 35,000 acres of the Yavapai Ranch 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 transferred from Yavapai Ranch to the municipalities and summer camps so that they can own and use the lands they currently lease for the Forest Service.

In terms of the exchange process, the land exchange directed by S. 161 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, S. 161 requires that the lands ultimately exchanged will be of equal value, either by making adjustments in the Federal and non-Federal lands exchanged, or through cash equalization.

#### LEGISLATIVE HISTORY

S. 161 was introduced by Senator McCain for himself and Senator Kyl on January 23, 2005. A similar bill (S. 849) was introduced in the 108th Congress by Senator McCain and Senator Kyl on April 9, 2003. The Subcommittee on Public Lands and Forests held a hearing on S. 849 on September 11, 2003 (S. Hrg. 108-196). The Senate passed S. 849 as an amendment to H.R. 620 (S. Amdt. 4048) by unanimous consent on December 7, 2004. Congressman Renzi sponsored a companion measure, H.R. 2907, which passed the House of Representatives by a voice vote on October 18, 2003. The bill was not acted on in the Senate.

A similar measure (H.R. 5513) was introduced by Representative Hayworth and others in the 107th Session of Congress. The House Resource Subcommittee on Forest and Forest Health held a hear-

ing on H.R. 5513 on October 10, 2002. On November 11, 2002, the House of Representatives discharged, with an amendment, H.R. 5513 by unanimous consent. The House of Representatives passed the bill by unanimous consent on November 15, 2002. The Senate did not take up the bill before the close of the 107th Congress.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on February 16, 2005, by a unanimous vote of a quorum present, recommends that the Senate pass S. 161, if amended as described herein.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title and the table of contents for the Act.

### TITLE I—NORTHERN ARIZONA LAND EXCHANGE

*Section 101* definition of key terms used in the Act.

*Section 102(a)* directs the Secretary of Agriculture to convey Federal lands identified in section 104 to Yavapai Ranch upon receipt on Yavapai Ranch's conveyance of non-Federal lands to the Secretary. Title to the lands to be exchanged shall be in a form acceptable to the Secretary and Yavapai Ranch and may be modified as provided in this Act. Minor technical corrections to the maps and legal descriptions may be made, if mutually agreed to. If a discrepancy exists between the maps and legal description, the maps shall prevail, unless the Secretary and Yavapai agree otherwise.

Subsection (b) provided that the exchange shall be carried out in accordance with the Federal Land Policy and Management Act. All land surveys, pre-exchange inventories, clearances, reviews, and approvals, including those related to hazardous material, threatened and endangered species, cultural and historic resources and wet lands and flood plains, must be completed prior to the exchange.

Subsection (c) requires that the value of the lands to be exchanged be equal and includes a list of properties to be deleted if the final appraisal values are not equal.

Subsection (d) requires the value of the lands to be exchanged to be determined by uniform appraisal standards. For a three-year period following the Secretary's approval of the final appraisal values, the Secretary shall not be required to reappraise or update the appraisal values prior to the completion of the land exchange. The appraiser shall determine the value of each parcel of Federal and non-Federal land as an assembled transaction. The Secretary is directed to provide public notice of the approved appraisals and to provide copies of the appraisals to the cities and owners of camps described in section 101(1).

Subsection (e) authorizes the Secretary to allow Yavapai Ranch to contract independent third parties to complete work necessary to complete the exchange and directs the Secretary to reimburse Yavapai Ranch for the cost of the third-party contractors.

Subsection (f) provides that the exchange shall be subject to easements, rights-of-way or other valid encumbrances in existence on the date of enactment.

Subsection (g) authorizes the owners of camps and cities to enter into agreements with Yavapai Ranch whereby Yavapai Ranch will convey the affected parcel to the camps or city at the conclusion of the land exchange. If the cities and camps and the Yavapai Ranch have not signed the agreements 30 days after appraisals have been made public, the Secretary is directed to delete the parcels from the exchange and offer them for sale to the respective cities or camps.

Paragraph three directs the Secretary to convey all rights and title to the deleted parcels for fair market value to the specified camp or city. The owners of the deleted parcels are required to reimburse Yavapai Ranch for costs incurred directly associated with surveys and appraisals upon receipt of title to Federal lands.

The Secretary is to deposit the proceeds of the sale of parcels in the Sisk Act account to be expended for acquisition of land in the State of Arizona.

*Section 103(a)* describes 35,000 acres of non-Federal lands to be exchanged.

Subsection (b) lists easements reserved by Yavapai Ranch, including water rights, wells, storage tanks, and pipelines, as well as 40 acres around each of three identified wells. The subsection provides that the United States shall be entitled to one half of the production of the 3 wells, up to 3.1 million gallons of water annually, and describes the location of the easements on the referenced map.

*Section 104(a)* describes the 19,465.76 acres of Federal lands on the Prescott, Coconino, and Kaibab National Forests to be exchanged, as depicted on a series of maps.

Subsection (b) authorizes the Secretary to enter into a memorandum of understanding with the State of Arizona, or a political subdivision of the State, to enforce the terms of conservation easements that prohibit the current or future owners of the Camp Verde General Cook parcel (one of the parcels to be conveyed to Yavapai Ranch) from golf course development, requires that any green-belt or public park be watered with treated wastewater, be limited to not more than 300 acre-feet of water per year, and that any water used for the parcel not be withdrawn from wells perforated in the saturated Holocene alluvium of the Verde River.

*Section 105* contains several provisions concerning the management of the non-Federal lands being acquired by the Secretary, including direction on grazing, timber harvesting, and forest health projects.

*Section 106* directs the Secretary to revoke existing public orders on Federal lands to be exchanged; withdraws Federal lands to be conveyed from all forms of entry and appropriation under the public land, mining, and mineral leasing laws until the exchange is completed; and states that it is the intention of Congress that the exchange be complete within 18 months after enactment of the Act.

*Section 107* directs the Secretary to convey, by quitclaim deed, a small parcel of land in Coconino County to correct a minor boundary conflict between several adjacent landowners and the national forest boundary. The land is to be sold for \$2,500 to a person representing a majority of the affected landowners.

## TITLE II—VERDE RIVER BASIN PARTNERSHIP

*Section 201* describes the purposes of the title.

*Section 202* defines the terms used in the title.

*Section 203* authorizes the Secretary to participate in the establishment of the Verde River Basin Partnership and authorizes the Secretaries of Agriculture and the Interior to be appropriated such sums as are necessary to carry out the activities of the Partnership for fiscal years 2006 through 2010. The purpose of the Partnership is to coordinate and cooperate in the identification and implementation of comprehensive science-based policies, projects and management activities relating to the Verde River Basin in Arizona.

*Section 204* describes the work and studies to be completed by the Partnership and directs the studies be transmitted to the Secretary of Agriculture, the Governor of Arizona and representatives of Verde Valley communities within 16 months after enactment of the Act.

*Section 205* describes the contents to be included in the final report to be transmitted to the Secretary and Governor of Arizona not later than 4 years after the enactment of the Act.

*Section 206* directs the Secretary of the Interior and the Secretary of Agriculture to enter into a memorandum of understanding to allow the United States Geological Survey to access Forest Service land to carry out this title of the Act.

*Section 207* clarifies that nothing in this title diminishes or expands State or local jurisdiction, or rights with respect to water resource management or control.

#### COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested, but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 161.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 161, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

The views of the Administration were included in testimony received by the Committee at a hearing on S. 849 in the 108th Congress on July 21, 2004, as follows:

STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL  
RESOURCES AND ENVIRONMENT, UNITED STATES DEPART-  
MENT OF AGRICULTURE

*S. 849—the Northern Arizona National Forest Land Ex-  
change Act of 2003*

The Department supports the concept of a land exchange between Yavapai Ranch Limited Partnership, the Northern Yavapai, L.L.C. and the Forest Service, which would consolidate the largest remaining checkerboard ownership in Arizona. We do however, have some concerns related to the parcel deletion order and enforcement provisions associated with the conservation easements and would like to work with the committee on some clarifications.

S. 849 would authorize the exchange of approximately 55,000 acres of Federal and non-Federal land in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership. Pass-through provisions allow for some of the Federal land acquired by Yavapai Ranch Limited Partnership and the Northern Yavapai L.L.C. to be reconveyed to the cities of Flagstaff, Williams, and Camp Verde, Arizona, or to summer organizational camps identified in the bill.

This exchange can offer substantial benefits to all parties involved. The Forest units involved would benefit from simplified boundary management, reduced administrative costs, and the acquisition of lands adjacent to the Juniper Mesa Wilderness, which has significant forest, wildlife, and recreation values. Consolidating 110 square miles into solid Forest Service ownership is a significant gain from both administrative and resource standpoints.

The Department has suggestions to improve one section in the bill. Section 4 in S. 849 establishes conservation easements on the Camp Verde and Cottonwood parcels. These parcels are located on the Prescott National Forest. S. 849 needs greater detail concerning: (1) how a memorandum of understanding with the State of Arizona will be developed to enforce the conservation easements; (2) when the memorandum will take effect and for how long; and (3) how the Federal Government will be removed from liability. We would be happy to work with the committee and the bill authors to provide additional details.

In addition, the Department is concerned that the evaluation of the Federal parcels due to the conservation easements could result in the transfer of far more Federal land to the owners of the Yavapai Ranch and its related limited liability corporation than would otherwise occur if the market value of the Federal estate were fully and fairly valued, but the Federal government will hold these conservation easements in perpetuity.

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## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 161, as ordered reported.

