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CLARIFICATION TO THE NORTHERN ARIZONA LAND EX- CHANGE AND VERDE RIVER BASIN PARTNERSHIP ACT OF 2005

DECEMBER 16, 2015.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1592]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1592) to clarify the description of certain Federal land under the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 to include additional land in the Kaibab National Forest, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1592 is to clarify the description of certain Federal land under the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 to include additional land in the Kaibab National Forest.

BACKGROUND AND NEED

S. 1592 clarifies the description of one parcel of land that was authorized for conveyance in the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 (P.L. 109-110; 119 Stat. 2356). The 2005 legislation provided for the conveyance of 237.5 acres from the U.S. Forest Service (USFS) to Young Life for a camp near Williams, Arizona. Although the legislation described the 237.5-acre parcel (section 104(a)(5)), the map referenced in the same section erroneously depicted only 212.5 acres.

The 2005 Act provided that “in the case of any discrepancy between a map and legal description, the map shall prevail unless

the Secretary and Yavapai Ranch agree otherwise.” (P.L. 109–110, section 102(a)(4)(B)). Despite the statutory authority to reconcile the description with the map, the Secretary of Agriculture has taken the position that the USFS lacks the legal authority to convey more than the 212.5 acres identified on the map. S. 1592 amends the legal description to add the 25 acres and clarify that the USFS has the authority to convey the full 237.5 acres that was described in the text of the 2005 legislation.

LEGISLATIVE HISTORY

S. 1592 was introduced by Senators Flake and McCain on June 17, 2015. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on October 8, 2015.

On November 19, 2015, the Committee on Energy and Natural Resources met in open business session and ordered S. 1592 favorably reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 19, 2015, by a majority voice vote of a quorum present, recommends that the Senate pass S. 1592.

SECTION-BY-SECTION ANALYSIS

Section 1 amends Section 104(a)(5) of the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 (P.L. 109–110; 119 Stat. 2356) by adding approximately 25 acres of Federal land to be given to Yavapai Ranch as part of the land exchange in the original Act.

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. 1592. 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. 1592, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1592, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff

benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the USFS at the October 8, 2015, Subcommittee on Public Lands, Forests, and Mining hearing on S. 1592 follows:

STATEMENT OF GLENN CASAMASSA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 414, S. 1592, and S. 2069.

S. 414, "CALIFORNIA DESERT CONSERVATION AND RECREATION ACT OF 2015"

The Department supports S. 414 and would like to work with the Committee and bill sponsor on several clarifications, some of which we will highlight in the testimony that follows. We defer to the Department of Interior regarding the provisions in this bill concerning lands under its management.

The majority of National Forest System lands in S. 414, Title XIV (Sand to Snow National Monument) are within the San Gorgonio Wilderness Area on the San Bernardino National Forest (NF). The San Bernardino National Forest Land and Resource Management Plan (Forest Plan) was revised in 2006 and then amended in 2014 using an extensive public process. The proposed Monument and wilderness designations in S. 414, Title XIV, are closely aligned with recommended wilderness and forest management objectives included in the Forest Plan.

S. 414 would designate approximately 62,648 acres of the San Bernardino National Forest, along with approximately 73,000 acres administered by the Bureau of Land Management (BLM), as the Sand to Snow National Monument. The Monument would be managed jointly by both agencies. This approach has been successful for over 15 years on the Santa Rosa and San Jacinto Mountains National Monument in California. The purpose of the Monument would be to preserve the nationally significant biological, cultural, educational, geological, historic, scenic, and recreational values at the convergence of the Mojave and Colorado deserts and the San Bernardino Mountains.

The 2014 Forest Plan Revision for the San Bernardino NF recognized the importance of wildlife connections and corridors to and from the Forest, as well as the significant biological, cultural, scenic and recreational values of the greater San Gorgonio Mountain ecosystem.

The Department welcomes the opportunity to work with the Secretary of the Interior in jointly managing the proposed Monument using the different authorities and guide-

lines governing the National Forest and Bureau of Land Management lands designated within the Monument. Using a joint management model, the Secretaries would be responsible for separately managing lands under their jurisdictions. The Department recommends distinguishing between the Secretary of Agriculture and the Secretary of Interior in this legislation to avoid confusion about which sections of the bill pertain to National Forest System or BLM-administered lands.

In Section 1403(b), the Department is asking the Committee and the bill sponsor to consider adding “management” to the general authority on Cooperative Agreements that could be used in the Monument. This change would allow the Forest Service to work with the BLM and the advisory committee in considering a Service First Agreement to manage the Monument. This approach is currently being used successfully on the Santa Rosa and San Jacinto Mountains National Monument.

Section 1501(c), as added to the California Desert Protection Act of 1994 by S. 414, would designate a 7,141-acre wilderness addition on the west and south ends of the existing 95,953-acre San Geronio Wilderness; this addition includes 1,000 acres of private property owned by the Wildlands Conservancy. The area under consideration is currently an inventoried roadless area. The Department supports this wilderness addition as it would improve management efficiencies in this area, and would like to work with the Subcommittee to ensure the roadless areas can be consistently managed pursuant to this Act and the Wilderness Act.

Section 104(2)(209)(A) and Section 104(2)(210)(A) of this legislation would designate approximately 76.3 miles of the specified rivers as part of the National Wild and Scenic Rivers System. Of this total, approximately 34.5 miles of Deep Creek, including its principal tributary, Holcomb Creek, and 17.1 miles of the North, Middle and South Forks of the Whitewater River are within the boundary of the San Bernardino National Forest and would be administered by the Forest Service. In order to ensure consistency with the current provisions of the Wild and Scenic Rivers Act and the 2014 Revision of the San Bernardino NF Plan, the Department would like to work with the Subcommittee to include some technical corrections in Section 104(2).

The Forest Service has found each of these rivers to be eligible for designation based on their free-flowing character and regionally important river-related values. The Department supports designation of these eligible rivers as Wild and Scenic based on general support from the communities of interest and consistency of designation with the management of National Forest System lands within the river corridors.

Section 1406 of this bill would establish an advisory committee to provide advice on the development and implementation of the management plan for the proposed

Monument, closely mirroring the successful approach of the Santa Rosa and San Jacinto Mountains National Monument. The Department believes an advisory committee would contribute greatly to the development of the management plan for the Sand to Snow National Monument. Given the length of time necessary to establish a committee under the Federal Advisory Committee Act, and the importance of creating a successful monument management plan, the Department requests the time frame for completing the plan be changed to three years after the advisory committee is established, rather than three years after the date of enactment of the bill.

Finally, Section 1403(g)(4) of this legislation states that pending completion of the Monument management plan, the Secretary shall manage any Federal land and Federal interests in land within the boundary of the Monument in accordance with section 1.6D of the Bureau of Land Management manual numbered 6220, dated July 13, 2012, and entitled “National Monuments, National Conservation Areas, and Similar Designations.”

The Department would like to work with the Committee and the bill sponsor on this section to ensure that interim management of the Monument is consistent with current uses occurring on both National Forest System and BLM-administered lands under the authorities, policies, and existing management plans of both the Forest Service and the BLM for such lands, and in a manner that is consistent with other applicable Federal laws.

Title XIX of S. 414, Section 1905 (“Transfer of Administrative Jurisdiction”), would transfer administrative jurisdiction of over approximately 40 acres of National Forest System land to the BLM for inclusion in the proposed Alabama Hills National Scenic Area. This is an isolated parcel of land and the Department supports the transfer of administrative jurisdiction to the BLM.

In Title XX—Miscellaneous, Section 105 (Conforming Amendments) the Department would like to work with the Committee and bill sponsor on proposed amendments to provisions of the California Desert Protection Act to address concerns related to effects on wilderness from activities outside the wilderness boundary.

S. 1592, “A BILL TO CLARIFY THE DESCRIPTION OF CERTAIN FEDERAL LAND UNDER THE NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARTNERSHIP ACT OF 2005 TO INCLUDE ADDITIONAL LAND IN THE KAIBAB NATIONAL FOREST”

S. 1592 would authorize the Secretary of Agriculture to convey an additional 25 acres to Young Life Lost Canyon Organizational Camp. The Department can support enactment of S. 1592, if a technical amendment is included that would provide an easement for a proposed extension for the Water Storage Tank Road.

This legislation clarifies the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005.

The original Act authorized a land exchange with Yavapai Ranch and the United States that was not completed. The Act also authorized the sale of a parcel of National Forest System lands to Young Life Lost Canyon Organizational Camp on the Kaibab National Forest. The legislative map referenced by the Act for the Young Life private property showed an area of only approximately 212 acres to be conveyed, instead of the approximately 237.5 acres stated in the Act. The area shown on the legislative map excluded a particular 25-acre parcel. Because the legislative map controlled over the reference to approximately 237.5 acres, the Act did not authorize conveyance of the 25-acre parcel excluded by the map. S. 1592 was introduced to clarify that conveyance of the 25-acre parcel is also authorized, allowing the United States to convey a total of approximately 237.5 acres to Young Life.

In summary, S. 1592 would resolve the disparity between the legislative map and the total acreage authorized for conveyance, allowing the Secretary to proceed with the direct sale of a total of approximately 237.5 acres to Young Life Lost Canyon Organizational Camp. In order to ensure agreement between the acreage and the legal description, the Agency is willing to provide additional technical assistance to the Committee, and wants to work with the Committee to include the easement for the Water Tank Road Extension.

S. 2069, "MOUNT HOOD COOPER SPUR LAND EXCHANGE CLARIFICATION ACT"

S. 2069 concerns the Mount Hood Cooper Spur Land Exchange Clarification Act. We would like to work with the Committee and Sponsor to address several concerns. The Cooper Spur Land Exchange was initially authorized by the Omnibus Public Land Management Act of 2009. Clarifications are needed to move forward with the exchange.

The following issues concern the Forest Service:

- The bill would require the Forest Service to reserve a 24-foot wide trail easement. The width of the easement would restrict the ability of the Forest Service to appropriately address reconstruction and repair needs of the trail, the drainage and soil protection features that go beyond the normal 3–4 foot tread path, and the loss of buffer between the trail and any non-federally owned building or facility adjacent to the trail.
- The bill would eliminate the requirement that the Forest Service reserve a conservation easement on the Federal land to be conveyed. We understand there may be state-level protections under the bill; however, the Forest Service will have no legal right or obligation to monitor and enforce the status of any of the identified wetlands after conveyance because the United States will have no property interest, such as a conservation easement, protecting the property. In addition, without a reserved federal interest like a

conservation easement, Executive Order 1990 will become inapplicable to the lands once they leave federal ownership.

- The bill would require the joint selection of an appraiser by the Forest Service and Mount Hood Meadows within 60 days after enactment of this legislation. Selection of an appraiser is not attainable within a 60 day period. The process to hire a non-agency appraiser must follow federal contracting regulations. The contracting process typically takes 120 days for contract selection.

- The bill would require the land exchange be completed within 1 year after passage of the legislation. It typically takes the better part of a year to just obtain an approved appraisal. Realistically, it will take more than 18 months to complete the appraisal and all necessary analysis to complete the exchange.

We look forward to working with the Committee and the Sponsor to resolve these issues.

This concludes my remarks. I would be happy to answer any questions. Thank you for the opportunity to testify.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005

* * * * *

SEC. 104. DESCRIPTION OF FEDERAL LAND.

(a) IN GENERAL.—The Federal land referred to in this title consists of the following:

* * * * *

(5) Certain land located in the Kaibab National Forest, comprising approximately 237.5 acres, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Younglife Lost Canyon”, dated August 2004, *which, notwithstanding section 102(a)(4)(B), includes the N 1/2, NE 1/4, SW 1/4, SW 1/4, the N 1/2, N 1/2, SE 1/4, SW 1/4, and the N 1/2, N 1/2, SW 1/4, SE 1/4, sec. 34, T. 22 N., R. 2 E., Gila and Salt River Meridian, Coconino County, comprising approximately 25 acres.*

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