

Statement
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Before the
Subcommittee on Forests and Forest Health
Committee on Resources
United States House of Representatives

Concerning

H.R. 410 – Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005
H.R. 599 – Federal Lands Restoration, Enhancement, Public Education, and Information Resources Act of 2005
H.R. 975 – Trail Responsibility and Accountability for the Improvement of Lands Act of 2005

March 16, 2005

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present the Department's views on the three bills before the Subcommittee today.

H.R. 410 – The Northern Arizona Land Exchange and Verde Basin Partnership Act of 2005

The Department supports the bill, Title I of which provides for a land exchange between Yavapai Ranch Limited Partnership, the Northern Yavapai, L.L.C. and the Forest Service.

H.R. 410 would direct the Secretary of Agriculture to exchange approximately 15,000 acres of Federal lands in the State of Arizona with approximately 35,000 acres owned by the Yavapai Ranch Limited Partnership. This complex exchange, which would consolidate the largest remaining checkerboard ownership in the State of Arizona, can offer substantial benefits to all parties involved.

The most significant public benefits accrue from the consolidation of land ownership by the United States in lands adjacent to the Juniper Mesa Wilderness, which are currently in mixed ownership. These lands have significant forest, wildlife, and recreation values. Consolidating 110 square miles under Forest Service ownership is a significant gain to the Prescott National Forest, from both administrative efficiencies and resource management standpoints.

In addition, pass-through provisions in H.R. 410 would 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.

The cities will benefit from enactment of H.R. 410, upon receipt of the identified parcels, which will allow for growth and city consolidation. These transactions will also benefit the Prescott, Coconino and Kaibab National Forests by simplifying boundary management and reducing administrative costs associated with the numerous small parcels contained in H.R. 410 that are in the wildland-urban interface area of the communities of Camp Verde, Flagstaff and Williams.

Section 104(b) of H.R. 410 provides for the United States to retain a conservation easement on the Camp Verde General Crook parcel limiting water usage on the parcel. It also authorizes the Secretary to enter into a memorandum of understanding with the State or political subdivision of the State to enforce the terms of the conservation easement. Since it is clearly in the interest of the municipality of Camp Verde to monitor water usage on the parcel and compliance with the easement, we expect the municipality to play the pivotal role in any memorandum of understanding and a limited role, if any, for the Secretary and minimal exposure for the taxpayer on any residual liability.

Mr. Chairman, the Department believes Title I of H.R. 410, in its totality, will allow the Federal government to achieve approximate equity in the value of lands conveyed and the non-Federal land acquired in the multiple separate transactions contemplated under the bill. In achieving that goal, the affected communities will benefit and the acreage of checkerboard land consolidated under Federal ownership in the northern portion of the Prescott National Forest, which is the driving force behind the legislation, will be maximized.

Title II of H.R. 410 authorizes the Secretary's participation in the establishment of the Verde River Basin Partnership, which shall conduct Verde River Basin water resource studies. The Administration is concerned that Title II, as drafted, is duplicative of existing authorities available to the Secretaries and establishes unlimited budget authority to conduct the study and a report that is properly prepared under the aegis of the State of Arizona. The Agency would be happy to work with the Committee on amendments to remedy these objections.

H.R. 599 - Federal Lands Restoration, Enhancement, Public Education, and Information Resources Act of 2005

We commend Mr. Udall and Mr. Tancredo for sponsorship of H.R. 599 and for their efforts through this bill to raise the public's awareness of the laws pertaining to Federal lands to protect the public's natural resources, and the consequences of violating them.

Section 2(d) of H.R. 599 would amend section 7 of the Act of June 20, 1958 (16 U.S.C. 579(c)) to provide authority to the Secretary to retain and use fines collected as a result of a violation of Forest Service regulations to defray the cost to the United States of any improvement, protection, or rehabilitation work on National Forest System lands rendered necessary by the action which led to the fines. The section would also authorize the use of money received from fines, forfeitures, judgments, settlements, and compromises for prevention and education programs to help reduce future violations and losses.

Section 579(c) currently authorizes the use of monies received as a result of a forfeiture, judgment, settlement, or compromise of any claim involving damage to the lands or improvements to be used to cover the cost of any improvement, protection or rehabilitation on NFS lands rendered necessary by the action which led to the forfeiture, judgment, settlement or compromise. Section 579(c) has been interpreted broadly to authorize the Forest Service to retain funds recovered from responsible parties in Comprehensive Environmental Response Compensation and Liability Act (CERCLA) enforcement cases. It is extremely important to the Forest Service CERCLA program that this long-standing interpretation of section 579(c) by the Department's Office of General Counsel, the Government Accountability Office and the Department of Justice not be inadvertently narrowed by the amendments in section 2(d) of H.R. 599.

We recommend to the subcommittee replacement language, amending 16 U.S.C. 551, that would make the provision parallel to the authorities provided to Department of the Interior agencies in the bill while avoiding the risk of inadvertently narrowing existing authorities in section 579(c). The amendment would also expressly provide that collateral payments in lieu of an appearance for violations of the Forest Service criminal prohibitions could be retained and used by the Forest Service for any improvement, protection, or rehabilitation work on National Forest System lands rendered necessary by the action which led to the collateral payments. Forfeiture of collateral schedules, which are established in most judicial districts by local rule, provide for payment of a fixed sum in lieu of a court appearance by someone charged with a minor federal offense.

HR 599 would allow the Secretaries of the Interior and Agriculture to use fines from violations of laws and regulations applicable to public lands for restoration and informational activities without further appropriations. In general, collections that result from the Government's exercise of its sovereign power, such as fines and penalties, should be deposited in the General Fund of the Treasury. The PAYGO effect of this bill is not extensive. The Administration recommends the availability of proceeds be subject to appropriations.

H.R. 975 – The Trail Responsibility and Accountability for the Improvement of Lands Act (TRAIL Act) of 2005
The Department supports H.R. 975 and we commend Mr. Tancredo and the co-sponsors of H.R. 975 for their efforts to provide consistent enforcement authority to the Forest Service and other land management agencies to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of the agencies.

H.R. 975 would make consistent the penalties for violating regulations of the National Park Service, Bureau of Land Management, and Fish and Wildlife Service, and Forest Service. We support such a concept as we work closely with our fellow land management agencies in enforcement activities, including local cross-designations of authority. Consistent enforcement authority would make this cooperation much easier, aid the public in understanding regulations and penalties, and assist prosecutors and courts that must handle cases arising from different federal jurisdictions. We will work with the Department of Justice and the Federal courts to best ensure advantages of consistent criminal penalties are fulfilled.

This concludes my statement. I would be pleased to answer any questions that you may have.