

Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

July 6, 2015

To: Natural Resources Committee Members

From: Spencer Kimball, Federal Lands Subcommittee Staff, x 6-7736

Subject: Full Committee Markup on H.R. 1554, “Elkhorn Ranch and White River National Forest Conveyance Act of 2015”

Bill Summary

H.R. 1554, the “*Elkhorn Ranch and White River National Forest Conveyance Act of 2015*,” introduced by Congressman Scott Tipton (R-CO), would require a U.S. Forest Service (USFS) land conveyance involving an area known as Elkhorn Ranch which is north of the White River National Forest (WRNF) in the State of Colorado. Specifically, the bill would require USFS to convey by patent the area, approximately 148 acres, to the Gordman - Leverich Partnership (GLP).

Bill Sponsors/Co-Sponsors

Sponsor: Rep. Scott Tipton (R-CO-03)
Co-Sponsors: Rep. Jared Polis (D-CO-02)

Background

The purpose of this legislation is to correct a discrepancy in the survey of 148 acres in Garfield County, Colorado, now known as Elkhorn Ranch, and require USFS to convey by patent the area to GLP. In 1908, three families began homesteading portions of the parcel after it was patented and conveyed into private ownership. The area, which is directly north of the boundary of the WRNF, has been owned by several successors since it was originally patented and was purchased by GLP in 1998. Since it was originally homesteaded in 1908, Elkhorn Ranch has been improved and used by patentees and their successors for ranching and agricultural purposes. Today, seven stock ponds, two developed springs, fences, and roads exist on the property.

Shortly before the parcel was originally patented, the General Land Office confirmed with the original patentees that their homesteads were located in Section 18 with east-west fence lines, which conforms to present fence lines. A new survey conducted in 1949, which portrayed the southern-most boundary of the area on an angle rather than a true east-west line, resulted in the inclusion of the 148 acres at question into the boundaries of the WRNF and called into question the true ownership of the acreage. The patentees were not notified of this conflicting survey after its completion and the USFS first learned of this discrepancy in 2002.

Beginning in 2002, the Surveyor of the WRNF began to closely examine the conflicting surveys. In 2014, the Surveyor issued a report indicating that the original patents were based on a proper survey and recommended a “legislative boundary correction protecting bona fide rights” in order to correct the survey discrepancy and ensure that the area is re-patented to the appropriate private landowner.¹ The Garfield County Surveyor agreed with the Forest Service’s conclusion and recommendations.²

As a result of the Surveyor’s 2014 report, the Forest Supervisor of the WRNF recommended that the area be “confirmed in the successors in interest to the original patentees” and admitted that “the White River National Forest does not currently manage the 148 acres as National Forest land.”³ The Forest Supervisor also stated that reaffirming the land as private would not “be counter to the Forest Land Management Plan...Nor would such conveyance have any meaningful impact on the goals that Congress intended to impose when it designated the boundaries of the White River National Forest.”⁴

In 2011, the Bureau of Land Management issued Federal oil and gas lease COC-75070, which overlaps a portion of the Elkhorn Ranch. The bill would maintain the valid existing rights of the lessee of this lease and would provide United States the continued right to collect rent and royalty payments from that lease.

Further, the conveyance does not modify the exterior boundary of the White River National Forest. The bill requires GLP to pay for all costs related to any survey, platting, legal description, or other activities carried out to prepare and issue the patent.

Support for the Legislation

The following organizations support Congressional action on this issue: Garfield County Board of County Commissioners; Rifle Area Chamber of Commerce; Garfield County Surveyor; Piceance Energy, LLC; City of Rifle, Colorado; Club 20; White River Forest Surveyor; White River Forest Supervisor.

Administration Position

¹ Bontrager, Wyman M. Professional Licensed Surveyor 29408, Forest Land Surveyor, White River National Forest Service, “Short Summary of Boundary Status – Beaver Creek; Sections 18 and 19, T. 7 S. R. 93 W., 6th PM.” February 19, 2014.

² Letter from Scott E. Aibner, P.L.S. Garfield County Surveyor to Andy Wiessner, Western Land Group. May 7, 2104.

³ Letter from Scott G. Fitzwilliams, Forest Supervisor, White River National Forest, to Senator Mark Udall. March 25, 2014.

⁴ Letter from Don G. Carroll, Acting Forest Supervisor, White River National Forest to John Case, Esq. October 20, 2004.

USFS does not oppose H.R. 1554 and believes that it “would resolve a long standing title issue associated with the property.”⁵

Section-by-Section Analysis of Major Provisions of H.R. 1554

SEC. 2. LAND CONVEYANCE, ELKHORN RANCH AND WHITE RIVER NATIONAL FOREST, COLORADO.

- Sets forth land conveyance: All right, title, and interest of the United States in a parcel of land consisting of approximately 148 acres shall be conveyed by patent to GLP.
- Protects Valid Existing Rights- States the conveyance is subject to the valid existing rights of the lessee of Federal oil and gas lease COC-75070 and any other valid existing rights, and that the United States reserves the right to collect rent and royalty payments on this lease for its duration.
- No Modification of Existing Boundaries- This conveyance does not modify the exterior boundary of the WRNF or the boundaries of Sections 18 and 19 of Township 7 South, Range 93 West, Sixth Principal Meridian.
- Sets forth Time for Conveyance and Payment of Costs- Provides the conveyance must be completed no later than 180 days after the enactment of this Act. All costs incurred by the Secretary relating to any survey, platting, legal description, or other activities carried out to issue the patent shall be paid by GLP to the Secretary prior to the land conveyance.

Effect on Current Law

H.R. 1554 does not affect current law.

⁵ [Statement of Leslie Weldon, Deputy Chief National Forest System, Forest Service, U.S. Department of Agriculture on H.R. 1138, Sawtooth National Recreational Area and Jerry Peak Wilderness Additions Act](#), before the House Committee on Natural Resources, Subcommittee on Federal Lands. June 16, 2015.