

My Name is Kenneth R. Werner. I am a former United States Forest Service (USFS) employee from Region 5 in California. I retired in January of 2003 with over 41 years of government service.

During my career I spent 31 years doing Lands work. Twenty seven of these years were specifically related to land adjustments which include land exchanges, land purchases, land donations, land transfers and Small Tracts Act (Act) cases. During this time I added 44,000 acres valued at \$48,000,000, to the National Forest System by land exchange, 11,000 acres valued at \$11,000,000 by purchase, 100 acres valued at \$180,000 by donation and 800 acres by transfer from other agencies. I also processed approximately 12 Act cases.

I am here to support Congressman Doolittle's efforts to amend the 1983 Small Tracts Act to make it a more useful tool for National Forest System management. The Act was written to enable the USFS to improve management and solve problems for small landowners within the National Forest System boundaries. This is especially important for The Tahoe N. F. where I spent most of my career. The Tahoe N.F. consists of approximately 850,000 acres and has a considerable amount of private land within the boundary due to the Railroad Grant Acts of the 1860's, numerous mineral patents and other land disposal authorities. These interspersed private lands create unlimited opportunities for land adjustments.

The Small Tracts Act provides for sale, exchange or interchange of National Forest System lands to private parties of parcels which are not more than \$150,000 in value and are: 1) parcels that are 40 acres or less which are interspersed with or adjacent to lands which have been transferred out of federal ownership under the mining laws and which are determined by the Secretary of Agriculture, because of location and size, not to be subject to efficient administration., 2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description indicating there was not such encroachment, or 3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way. Under the Act the term interchange means an exchange where lands or interests in lands are traded for an approximately equal value without a formal appraisal.

In my experience the Act has been an extremely valuable tool to improve National Forest System management and help interspersed private landowners. However, I thoroughly agree with Congressman Doolittle that the Act can be made a much more useful tool by the addition of the following amendments:

1. Striking "not practical" and inserting "either not practical or not expedient." With the current level of funding, manpower, case workload and the complex regulation and policy that applies to exchanges under the General Exchange Act of 1922 it is neither practical nor expedient to process small cases. A good example of the time and effort involved in completing a case is the Granite Chief land exchange completed in 1991 in which the Tahoe National Forest acquired the private land in its first designated wilderness area. This case took 15 years to process. Another example is the Goodyears Bar land exchange which I recorded two weeks after I retired in January 2003. This case was in process for 17 years; and in the last two years I worked almost full time on this one case. By contrast the fastest exchange case I ever processed took just over 18 months, but this was highly unusual. The average exchange case takes approximately six years.
2. By striking "which have a value as determined by the Secretary of not more than \$150,000," This \$150,000 figure is a 1983 figure which applies to values all across the United States. Property values are generally higher in California than in most of the other states. In addition, property values have increased seven to ten times in California since 1982. It is very limiting to set an arbitrary dollar limit on land values that do not apply everywhere in the country and that will be constantly going out of date.
3. By striking "parcels of forty acres" and inserting "parcels or portions of parcels of 100 acres" Increasing the allowed parcel size gives the USFS more flexibility in resolving management issues. Parcel size is secondary to improving National Forest management.
4. By striking "under the mining laws". Due to the land ownership pattern on the forest I am most familiar with there are many small parcels of National Forest System land that are interspersed or isolated by other private land and are inefficient to manage due to size and/or lack of access. And these parcels are not all mineral fractions. They are surrounded by mineral patents or lands that have been transferred out of federal ownership by any one of the other general disposal authorities such as the Railroad Grant Acts, Homestead Acts, Timber and Stone Act, cash entry patents, etc. From a practical standpoint it does not matter to the USFS how adjacent lands became private. Limiting this tool to "mineral" fractions is an unnecessary restriction on a good land management tool.

In addition to the above changes Congressman Doolittle would like to authorize two specific small land adjustments for Mr.

Irving N. Christensen and Mr. Dennis W. McCreary. Both of these cases are very advantageous to the United States and the private parties involved. However, they do not fit the specific criteria of the Act and they will not be processed by the forest under the General Exchange Act due to their small size and the complexity of the land exchange process. In the Christensen case the Tahoe N.F. will acquire approximately 15 acres fronting on the N. Fork Yuba River and State Highway 49 and adjacent to an existing USFS campground. Mr. Christensen will acquire an equal value of National Forest System land encumbered by residential homes that have existed since approximately 1945.

In the McCreary case the Tahoe N.F. will acquire an approximately one acre parcel which it needs for a trailhead and Mr. McCreary will acquire an approximately one acre parcel of National Forest System land that is adjacent to his home and not useable to the forest.

I would like to emphasize that these proposed changes are to improve the Act and to improve National Forest management. There is no intent on the Congressman's part to utilize this act as a general disposal authority or to circumvent any environmental laws. All Act cases receive the same environmental reviews as General Exchange Act cases. The documentation is just abbreviated. For example, an exchange may include an environmental impact statement or an environmental assessment while an Act case will have a one or two page decision memo. In an exchange, the environmental investigations such as plants, animals, watershed, prehistoric cultural resources, historic cultural resources, etc. would have extensive reports while an Act case would have a letter or memo to the file. Under the Act all the rights of the United States and those of the private party are protected.

I will be happy to try to answer any questions you may have.