

Public Law 108–190
108th Congress

An Act

To provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

Dec. 19, 2003
[H.R. 622]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 431 note.

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Certain private lands adjacent to the Montezuma Castle National Monument in Yavapai County, Arizona, are desirable for Federal acquisition to protect important riparian values along Beaver Creek and the scenic backdrop for the National Monument.

(2) Certain other inholdings in the Coconino National Forest are desirable for Federal acquisition to protect important public values near Double Cabin Park.

(3) Approximately 108 acres of land within the Tonto National Forest, northeast of Payson, Arizona, are currently occupied by 45 residential cabins under special use permits from the Secretary of Agriculture, and have been so occupied since the mid-1950s, rendering such lands of limited use and enjoyment potential for the general public. Such lands are, therefore, appropriate for transfer to the cabin owners in exchange for lands that will have higher public use values.

(4) In return for the privatization of such encumbered lands the Secretary of Agriculture has been offered approximately 495 acres of non-Federal land (known as the Q Ranch) within the Tonto National Forest, east of Young, Arizona, in an area where the Secretary has completed previous land exchanges to consolidate public ownership of National Forest lands.

(5) The acquisition of the Q Ranch non-Federal lands by the Secretary will greatly increase National Forest management efficiency and promote public access, use, and enjoyment of the area and surrounding National Forest System lands.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, facilitate, and expedite the consummation of the land exchanges set forth herein in accordance with the terms and conditions of this Act.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DPSHA.—The term “DPSHA” means the Diamond Point Summer Homes Association, a nonprofit corporation in the State of Arizona.

(2) **FEDERAL LAND.**—The term “Federal land” means land to be conveyed into non-Federal ownership under this Act.

(3) **FLPMA.**—The term “FLPMA” means the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.).

(4) **MCJV.**—The term “MCJV” means the Montezuma Castle Land Exchange Joint Venture Partnership, an Arizona Partnership.

(5) **NON-FEDERAL LAND.**—The term “non-Federal land” means land to be conveyed to the Secretary of Agriculture under this Act.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture, unless otherwise specified.

SEC. 3. MONTEZUMA CASTLE LAND EXCHANGE.

(a) **LAND EXCHANGE.**—Upon receipt of a binding offer from MCJV to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to MCJV all right, title, and interest of the United States in and to the Federal land described in subsection (c).

(b) **NON-FEDERAL LAND.**—The land described in this subsection is the following:

(1) The approximately 157 acres of land adjacent to the Montezuma Castle National Monument, as generally depicted on the map entitled “Montezuma Castle Contiguous Lands”, dated May 2002.

(2) Certain private land within the Coconino National Forest, Arizona, comprising approximately 108 acres, as generally depicted on the map entitled “Double Cabin Park Lands”, dated September 2002.

(c) **FEDERAL LAND.**—The Federal land described in this subsection is the approximately 222 acres in the Tonto National Forest, Arizona, and surveyed as Lots 3, 4, 8, 9, 10, 11, 16, and 17, and Tract 40 in section 32, Township 11 North, Range 10 East, Gila and Salt River Meridian, Arizona.

(d) **EQUAL VALUE EXCHANGE.**—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and MCJV and performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are not equal, the Secretary shall delete Federal lots from the conveyance to MCJV in the following order and priority, as necessary, until the values of Federal and non-Federal land are within the 25 percent cash equalization limit of section 206(b) of FLPMA (43 U.S.C. 1716(b)):

- (1) Lot 3.
- (2) Lot 4.
- (3) Lot 9.
- (4) Lot 10.
- (5) Lot 11.
- (6) Lot 8.

Applicability.

(e) **CASH EQUALIZATION.**—Any difference in value remaining after compliance with subsection (d) shall be equalized by the payment of cash to the Secretary or MCJV, as the circumstances dictate, in accordance with section 206(b) of FLPMA (43 U.S.C.

1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the “Sisk Act”) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

SEC. 4. DIAMOND POINT—Q RANCH LAND EXCHANGE.

(a) **IN GENERAL.**—Upon receipt of a binding offer from DPSHA to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to DPSHA all right, title, and interest of the United States in and to the land described in subsection (c).

(b) **NON-FEDERAL LAND.**—The land described in this subsection is the approximately 495 acres of non-Federal land generally depicted on the map entitled “Diamond Point Exchange—Q Ranch Non-Federal Lands”, dated May 2002.

(c) **FEDERAL LAND.**—The Federal land described in this subsection is the approximately 108 acres northeast of Payson, Arizona, as generally depicted on the map entitled “Diamond Point Exchange—Federal Land”, dated May 2002.

(d) **EQUAL VALUE EXCHANGE.**—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and DPSHA and in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are not equal, they shall be equalized by the payment of cash to the Secretary or DPSHA pursuant to section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the “Sisk Act”) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

Applicability.

(e) **SPECIAL USE PERMIT TERMINATION.**—Upon execution of the land exchange authorized by this section, all special use cabin permits on the Federal land shall be terminated.

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) **EXCHANGE TIMETABLE.**—Not later than 6 months after the Secretary receives an offer under section 3 or 4, the Secretary shall execute the exchange under section 3 or 4, respectively, unless the Secretary and MCJV or DPSHA, respectively, mutually agree to extend such deadline.

Deadline.

(b) **EXCHANGE PROCESSING.**—Prior to executing the land exchanges authorized by this Act, the Secretary shall perform any necessary land surveys and required preexchange clearances, reviews, and approvals relating to threatened and endangered species, cultural and historic resources, wetlands and floodplains and hazardous materials. If 1 or more of the Federal land parcels or lots, or portions thereof, cannot be transferred to MCJV or DPSHA due to hazardous materials, threatened or endangered species, cultural or historic resources, or wetland and flood plain problems, the parcel or lot, or portion thereof, shall be deleted from the exchange, and the values of the lands to be exchanged adjusted in accordance with subsections (d) and (e) of section 3 or section 4(d), as appropriate. In order to save administrative costs to the United States, the costs of performing such work, including the appraisals required pursuant to this Act, shall be paid by MCJV or DPSHA for the relevant property, except for the costs of any

such work (including appraisal reviews and approvals) that the Secretary is required or elects to have performed by employees of the Department of Agriculture.

(c) FEDERAL LAND RESERVATIONS AND ENCUMBRANCES.—The Secretary shall convey the Federal land under this Act subject to valid existing rights, including easements, rights-of-way, utility lines and any other valid encumbrances on the Federal land as of the date of the conveyance under this Act. If applicable to the land conveyed, the Secretary shall also retain any right of access as may be required by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) for remedial or corrective action relating to hazardous substances as may be necessary in the future.

(d) ADMINISTRATION OF ACQUIRED LAND.—The land acquired by the Secretary pursuant to this Act shall become part of the Tonto or Coconino National Forest, as appropriate, and be administered as such in accordance with the laws, rules, and regulations generally applicable to the National Forest System. Such land may be made available for domestic livestock grazing if determined appropriate by the Secretary in accordance with the laws, rules, and regulations applicable thereto on National Forest System land.

(e) TRANSFER OF LAND TO NATIONAL PARK SERVICE.—Upon their acquisition by the United States, the “Montezuma Castle Contiguous Lands” identified in section 3(b)(1) shall be transferred to the administrative jurisdiction of the National Park Service, and shall thereafter be permanently incorporated in, and administered by the Secretary of the Interior as part of, the Montezuma Castle National Monument.

Approved December 19, 2003.

LEGISLATIVE HISTORY—H.R. 622

SENATE REPORTS: No. 108–137 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 149 (2003):

Apr. 1, considered and passed House.

Nov. 24, considered and passed Senate, amended.

Dec. 8, House concurred in Senate amendments.