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107TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
107–665

DIRECTING THE SECRETARY OF AGRICULTURE TO CONVEY CERTAIN REAL PROPERTY IN THE DIXIE NATIONAL FOREST IN THE STATE OF UTAH

SEPTEMBER 23, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 5180]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 5180) to direct the Secretary of Agriculture to convey certain real property in the Dixie National Forest in the State of Utah, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CONVEYANCE OF REAL PROPERTY.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, subject to valid, existing rights, the Secretary of Agriculture shall convey to Kirk R. Harrison, who owns property in Pinto Valley, Utah, at fair market value, all right, title, and interest, including appurtenances, of the United States to—

(1) the land depicted on the Map as "Purchase A"; and

(2) the land depicted on the Map as "Purchase B".

(b) MAP.—

(1) DEFINITION.—For the purposes of this section, the term "Map" means the map entitled "Exhibit G" and dated "September 10, 2002".

(2) ON FILE.—The Map shall be kept on file and available for public inspection in the office of the Chief of the Forest Service. The Secretary of Agriculture may make technical corrections to the Map.

(c) TREATMENT OF PROCEEDS.—All funds received pursuant to this Act shall be deposited in the fund established under section 8 of Public Law 90–171 (16 U.S.C. 484a; commonly known as the "Sisk Act") and shall remain available to the Secretary of Agriculture until expended for the acquisition of lands and interests in land for inclusion in the Dixie National Forest.

(d) APPRAISAL.—The Secretary shall determine the fair market value of the property conveyed by subsection (a) by using nationally recognized appraisal standards, including, to the extent appropriate—

(1) the uniform appraisal standards for Federal land acquisitions;

(2) the uniform standards of professional appraisal practice; and
(3) other applicable law.

PURPOSE OF THE BILL

The purpose of H.R. 5180 is to direct the Secretary of Agriculture to convey certain real property in the Dixie National Forest in the State of Utah.

BACKGROUND AND NEED FOR LEGISLATION

In 1860, before the creation of the Dixie National Forest, the State of Utah, and the U.S. Forest Service, the Harrison family settled in the Pinto Valley located in present day Washington County, Utah. The Harrisons established property boundaries by erecting "rip gut" fences that exist still today. In 1885, John J. Harrison and Benjamin Platt applied for and were granted patents to certain lands in Pinto Valley.

Surveys were conducted by the U.S. Surveyor General's Office in 1881, establishing section corners in the valley. Another government survey in 1905 established the boundary of the Dixie National Forest. In 1984, the U.S. Forest Service retained an outside firm to perform surveys in the area, including lands adjacent to the Harrison property. When boundary markers were set and the survey was complete, the Harrison family and the United States Government became aware that portions of the lands to which the Harrisons claimed title were in violation of the boundary described in the 1885 patent.

Discrepancies over the boundary are due to several factors. During the 1984 survey, the U.S. Forest Service surveyors did not accept an "historic mound" monument used in previous surveys, and failed to locate the southwest corner of section 2 where the 1881 survey rock monument is located. This 1881 monument is located 37 feet from the 1905 rock monument, creating even more confusion. In fact, several corners have at least two different survey monuments where only one survey monument should be used. Additionally, the 1984 Forest Service markers are inconsistent with Washington County corner markers. Lastly, the patents received in 1885 were not based on as-built surveys of the properties, which left Mr. Harrison and Mr. Pratt no way of knowing that there was an inconsistency between the patents they received and the actual fence lines.

This legislation seeks to correct this problem by directing the Secretary of Agriculture to convey 112 acres to Kirk Harrison at fair market value. This legislation is necessary because the U.S. Forest Service lacks administrative authority to resolve this type of boundary dispute. This legislation would create a straight and manageable boundary along the land managed by the U.S. Forest Service. This legislation would further direct the Secretary to utilize the funds from this sale to acquire high priority environmentally sensitive lands within the Dixie National Forest to further the mandates and objectives of the agency.

The Committee on Resources recognizes that portions of the land conveyed by this legislation are currently subject to active grazing permits administered by the U.S. Forest Service. The Committee recognizes that grazing privileges are valuable, and that an action that could be construed as a taking of those privileges must be fol-

lowed by adequate compensation. It is therefore the intent of the Committee on Resources that before any provision of this legislation is carried out, the buyer must reach a mutual agreement with the permit holders for: (1) the relinquishment of the affected AUMs to the U.S. Forest Service; and (2) providing just compensation to those permit holders for such relinquishment. It is also the intent of the Committee that this agreement be private and reached on a willing-seller basis. The Committee requests that if the two parties reach an agreement, a copy of the executed agreement be submitted for the Committee on Resources as proof of the fulfillment of the Committee's intent for this legislation.

The Committee on Resources does not intend for any provision in this legislation to be construed as transferring or conveying any water right. If the parties have any disputes over water rights pertaining to the land conveyed by this legislation, the Committee urges the parties to consult with the Water Engineer of the State of Utah.

The Committee on Resources does not intend for this legislation to infringe on any valid existing right, including, but not limited to, public access to water systems or other national forest lands not conveyed by this legislation.

COMMITTEE ACTION

H.R. 5180 was introduced on July 23, 2002, by Congressman James V. Hansen (R–UT). The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Forests and Forest Health. On July 25, 2002, the Subcommittee held a hearing on the bill. On September 12, 2002, the Full Resources Committee met to consider the bill. The bill was discharged from further consideration by the Subcommittee on Forests and Forest Health by unanimous consent. Congressman Hansen offered an amendment in the nature of a substitute to reflect negotiations that occurred between the parties that decreased the acreage of the conveyance from 560 acres to 112 acres. The amendment was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has in-

cluded in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, this bill would result in proceeds of approximately $150,000 to the federal government in 2003, which would then be spent by the Secretary of Agriculture by 2004.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5180, a bill to direct the Secretary of Agriculture to convey certain real property in the Dixie National Forest in the state of Utah.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 5180—A bill to direct the Secretary of Agriculture to convey certain real property in the Dixie National Forest in the State of Utah

CBO estimates that H.R. 5180 would not significantly affect the federal budget. The bill would affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but we estimate that any such effects would be negligible. H.R. 5180 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

H.R. 5180 would direct the Secretary of Agriculture to convey to a private landowner about 112 acres of federal lands within the Dixie National Forest in Utah. The private landowner would pay fair market value for those lands. The bill would authorize the Secretary to use proceeds from the conveyance to acquire other lands and interests for inclusion in the Dixie National Forest.

According to the Forest Service, the lands to be sold currently generate no significant receipts and are not expected to do so over the next 10 years. Based on information from the agency, CBO estimates that proceeds from the proposed sale would total up to $150,000 in 2003, and that the agency would spend those proceeds over the 2003–2004 period. Hence, we estimate that, under H.R. 5180, the net change in direct spending in those years would be negligible.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

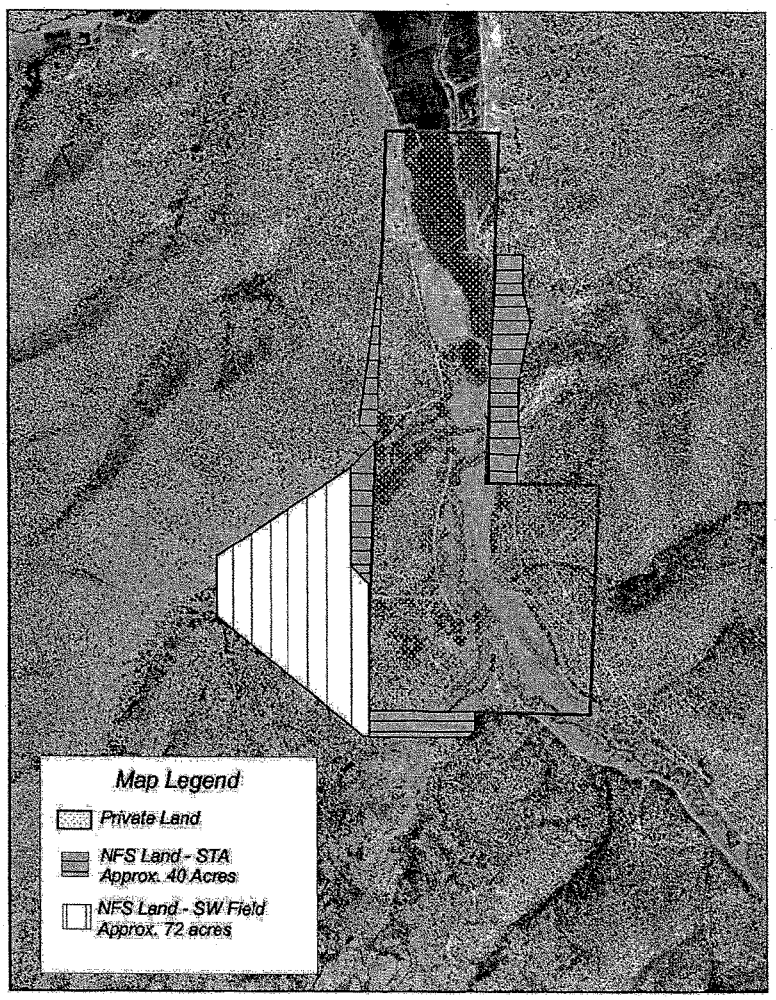
This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

EXHIBIT G

Sections 2 & 3, T.38 S., R.15 W., SLM
September 10, 2002



United States Department of Agriculture
Forest Service
Intermountain Region

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