



Legislative Bulletin.....April 24, 2012

Contents:

- H.R. 1038** - To authorize the conveyance of two small parcels of land within the boundaries of the Coconino National Forest containing private improvements that were developed based upon the reliance of the landowners in an erroneous survey conducted in May 1960
- H.R. 2050** - Idaho Wilderness Water Resources Protection Act
- H.R. 2157** - To facilitate a land exchange involving certain National Forest System lands in the Inyo National Forest, and for other purposes
- H.R. 2947** - To provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota
- H.R. 491** - To modify the boundaries of Cibola National Forest in the State of New Mexico, to transfer certain Bureau of Land Management land for inclusion in the national forest, and for other purposes
- H.R. 2240** - Lowell National Historical Park Land Exchange Act of 2011
- H.R. 1335** - To revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes.

H.R. 1038 - To authorize the conveyance of two small parcels of land within the boundaries of the Coconino National Forest containing private improvements that were developed based upon the reliance of the landowners in an erroneous survey conducted in May 1960 (Gosar, R-AZ)

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1038 authorizes the Secretary of Agriculture to convey two parcels of land within the Coconino National Forest to the majority of landowners with private property adjacent to the two parcels. The two parcels total 2.67 acres.

The landowners are responsible for paying the Secretary \$20,000 for this land transfer. These funds will be available to the Secretary for acquisition of land in the National Forest System.

Additional Information: According to House Report 112-436, an erroneous land survey was conducted in 1960. Based on the survey, many landowners developed and maintained property as their own. However, a 2007 survey found that the landowners had actually built just inside the boundary of the Coconino National Forest.

This legislation conveys two land parcels within the Coconino National Forest, and would affect 19 privately held land parcels outside of the park.

More information about the Coconino National Forest can be [found here](#).

Committee Action: H.R. 1038 was introduced on March 11, 2011, and was referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee held a hearing on December 2, 2011. The full committee held a markup on February 29, 2012, and passed the legislation, as amended, by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have a negligible impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-436 states “The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Gosar’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: Congress has the express constitutional authority to manage and convey federal lands, pursuant to Article IV, Section 3, Clause 2 of the Constitution. This clause provides, in relevant part: ‘The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States...’ Federal lands may only be appropriated by an act of Congress. *United States v. Fitzgerald*, 40 U.S. (15 Pet.) 407, 421 (1841) (‘No appropriation of public land can be made for any purpose, but by authority of congress. By the third section of the fourth article of the constitution of the United States, power is given to congress to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States.’) The statement can be [viewed here](#).

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H.R. 2050 - Idaho Wilderness Water Resources Protection Act (Simpson, R-ID)

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2050 directs the Secretary of Agriculture to authorize the continued operation, maintenance, and reconstruction of a water storage facility in the Frank Church-River of No Return Wilderness and the Selway-Bitterroot Wilderness.

The Secretary is directed to authorize this activity if the Secretary determines that:

- “The facility was in existence on the date on which the land upon which the facility is located was designated as part of the National Wilderness Preservation System (in this section referred to as ‘the date of designation’);
- “The facility has been in substantially continuous use to deliver water for the beneficial use on the owner's non-Federal land since the date of designation;
- “The owner of the facility holds a valid water right for use of the water on the owner's non-Federal land under Idaho State law, with a priority date that predates the date of designation; and
- “It is not practicable or feasible to relocate the facility to land outside of the wilderness and continue the beneficial use of water on the non-Federal land recognized under state law.”

This authorization will include the ability to use motorized equipment and will preclude the use of the water storage facility of water in excess of the water right recognized by the State of Idaho on the date of designation.

The Secretary may require the facility to be modified or relocated in the wilderness if the Secretary determines it necessary to reduce certain impacts to the wilderness. The Secretary may also require the owner to provide a reciprocal right of access across the non-federal property. In this case, the owner shall receive the fair market value for any right-of-way or other interest that is conveyed to the United States.

Additional Information: The Frank Church-River of No Return Wilderness was created by Congress in 1980 and now contains approximately 2,366,827 acres. More information can be [found here](#).

The Selway-Bitterroot Wilderness was created by Congress in 1964 and contains approximately 1,340,587 acres, spread across Idaho and Montana. This wilderness borders the Frank Church-River of No Return Wilderness. More information can be [found here](#).

Committee Action: H.R. 2050 was introduced on May 26, 2011, and was referred to the Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation by unanimous consent. The full committee held a hearing on February 29, 2012, and reported the legislation by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting H.R. 2050 would have an insignificant impact on net direct spending.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-437 states “H.R. 2050 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Simpson’s statement of constitutional authority states: “Congress has the power to enact this legislation pursuant to the following: ‘The constitutional authority of Congress to enact this legislation is provided by Article I, section 8 of the United States Constitution, specifically clause 1 (relating to the power of Congress to provide for the general welfare of the United States) and clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress), and Article IV, section 3, clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States).’” The statement can be [viewed here](#).

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**H.R. 2157 - To facilitate a land exchange involving certain National Forest System lands in the Inyo National Forest, and for other purposes
(McKeon, R-CA)**

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2157 establishes a process by which land in the Inyo National Forest in California may be exchanged.

The Secretary of Agriculture may accept non-federal land in California that is outside of the Inyo National Forest in exchange for land within the Inyo National Forest. The Secretary may accept the non-federal land if they determine its acquisition is desirable for the National Forest System.

The Secretary may also accept a cash payment to equalize the values of the properties being exchanged.

The legislation states that nothing “shall be construed to grant the Secretary of Agriculture new land exchange authority. This section modifies the use of land exchange authorities already available to the Secretary as of the date of the enactment of this Act.”

Additional Information: More information on the Inyo National Forest can be [found here](#).

Committee Action: H.R. 2157 was introduced on June 13, 2011, and was referred to the Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation by unanimous consent. The full committee held a hearing on February 29, 2012, and reported the legislation by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the legislation would increase offsetting receipts and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO expects that those changes would have no net impact on the deficit over the 2012-2022 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-439 states “H.R. 2157 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. McKeon states “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2: The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.” The statement can be [viewed here](#).

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H.R. 2947 - To provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota (Cravaack, R-MN)

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2947 directs the Secretary of Agriculture to release:

- The conditions imposed on the use of the parcel of land originally conveyed by the Secretary pursuant to section 16 of the Federal Airport Act (Act of May 13, 1946, ch. 251, 60 Stat. 170) to the State of Minnesota by deed executed May 31, 1950, for the establishment of an airport in Cook County, Minnesota; and
- The reversionary interest retained by the United States in connection with such conditions.

The Secretary shall execute a deed of release, or other appropriate instruments, to reflect the release of these reversionary interests.

Additional Information: According to the House Report 112-441 “The original 1950 conveyance required that the lands be used for the specific purposes of expanding the Grand Marais-Cook County Airport, yet the entire parcel was never developed and the restrictions in the land grant keep

it from being used for any other purpose. Release of this parcel will allow it to be utilized by the Cook County Highway Department for a local highway project.”

Committee Action: H.R. 2947 was introduced on September 15, 2011, and was referred to the Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation by unanimous consent. The full committee held a hearing on February 29, 2012, and reported the legislation by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the legislation would have no impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-441 states that “bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Cravaack’s statement of constitutional authority states “Congress has the power to enact this legislation pursuant to the following: Clause 2 of Section 3 of Article IV of the United States Constitution.” The statement can be [viewed here](#).

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H.R. 491 - To modify the boundaries of Cibola National Forest in the State of New Mexico, to transfer certain Bureau of Land Management land for inclusion in the national forest, and for other purposes (*Heinrich, D-NM*)

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 491 enlarges the boundaries of the Cibola National Forest to include certain land known as the “Crest of Montezuma.” This land is currently managed by the Bureau of Land Management (under the Department of the Interior) and is being transferred to the Forest Service (under the Department of Agriculture).

The legislation directs the Secretary to allow the use of all existing permits on the property that are in effect on the date of transfer. The legislation also allows the Secretary to acquire private land that is within the boundaries of the Forest, subject to appropriation.

Land transferred by this legislation shall be withdrawn from:

- “All forms of entry, appropriation, or disposal under the public land laws;
- “Location, entry, and patent under the public land mining laws; and
- “Operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.”

CBO estimates this legislation will affect approximately 900 acres. This legislation would be managed in accordance with the Weeks Act (16 U.S.C. 515 et seq.).

Additional Information: The Cibola National Forest covers more than 1.6 million acres in New Mexico. More information can be [found here](#).

According to House Report 112-435, the 900 acres affected by H.R. 491 “has been described as being fairly remote from current BLM managed areas and can be better managed by the Forest Service.”

Potential Conservative Concerns: The federal government is currently the largest landowner in the United States, owning more than 660 million acres. This equates to around 1/3 of the entire land mass of the United States. Many conservatives have advocated that the U.S. should own less land, not more. This legislation allows the Secretary of Agriculture to acquire (subject to appropriation) private land that is “included within the boundaries of Cibola National Forest.”

Some conservatives may be concerned that this legislation could lead to an increase the size and scope of the federal government. Other conservatives may feel that we should take every opportunity to shrink federal land holdings and we should require any additions to be offset by land relinquishments.

Additionally, H.R. 491 prohibits the land transferred from being used for future mineral leasing. Many House Republicans have advocated for the increased production of domestic energy and some may be concerned they are blocking lands from this potential use.

Committee Action: H.R. 491 was introduced on January 26, 2011, and was referred to the Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation by unanimous consent. The full committee held a hearing on February 29, 2012, and reported the legislation by voice vote.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting the legislation would have no significant impact on the federal budget. Based on information from BLM, CBO estimates that purchasing private lands under the bill would cost less than \$200,000, assuming the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government?: The land transferred by this legislation is currently managed by the Bureau of Land Management.

However, this legislation allows the Secretary of Agriculture to acquire (subject to appropriation) private land that is within the boundaries of Cibola National Forest. Some conservatives may be

concerned that this legislation could lead to an increase the size and scope of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-435 states “H.R. 491 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Heinrich’s statement of constitutional authority states, “Congress has the power to enact this legislation pursuant to the following: The constitutional authority of Congress to enact this legislation is provided by Article IV, Section 3 of the United States Constitution.” The statement can be [viewed here](#).

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H.R. 2240 - Lowell National Historical Park Land Exchange Act of 2011 (Tsongas, D-MA)

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2240 allows the Secretary of the Interior the option to exchange land within the Lowell National Historical Park for any land owned by the Commonwealth of Massachusetts, the city of Lowell, or the University of Massachusetts Building Authority.

In the event that the federal land exchanged is worth a greater value than the non-federal land being received, the Secretary shall accept a cash equalization payment in cash. The Secretary is not required to make a cash equalization payment if the federal land is worth less than the non-federal land being received.

Additional Information: Lowell National Historical Park is an urban National Park located in Lowell, Massachusetts. More information can be [found here](#).

Committee Action: H.R. 2240 was introduced on June 16, 2011, and was referred to the Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation by unanimous consent. The full committee held a hearing on February 29, 2012, and reported the legislation by voice vote, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting H.R. 2240 would have no significant impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-450 states “H.R. 2240 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Tsongas states “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2.” The statement can be [viewed here](#).

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H.R. 1335 - To revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes (Platts, R-PA)

Order of Business: The legislation is scheduled to be considered on April 24, 2012, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1335 enlarges the Gettysburg National Military Park by adding the following to the park (so long as the owner provides written consent):

- The Gettysburg Train Station and its immediate surroundings in the Borough of Gettysburg; and
- The land and interests in land located along Plum Run in Cumberland Township.

If the Secretary is unable to acquire the above property free of charge, the Secretary may purchase the property so long as the sellers are willing. The Secretary may not acquire the above property by eminent domain.

Potential Conservative Concerns: CBO estimates the legislation will cost \$1 million over the next two years, assuming the availability of appropriated funds.

Additionally, the National Park Service (NPS) has a maintenance backlog of around \$10.17 billion ([as of FY2009](#)). This legislation would require the NPS to divert existing resources in order to manage the additional land they are authorized to acquire by this legislation. This legislation does not contain an offset, or any other reduction to existing NPS responsibilities, to counteract the cost that the NPS would incur in order to carry out this legislation.

The federal government is currently the largest landowner in the United States, owning more than 660 million acres. This equates to around 1/3 of the entire land mass of the United States. Many conservatives have advocated that the U.S. should own less land, not more. Some conservatives

may be concerned that this legislation could lead to an increase the size and scope of the federal government. Other conservatives may feel that we should take every opportunity to shrink federal land holdings and we should require any additions to be offset by land relinquishments.

Committee Action: H.R. 1335 was introduced on April 1, 2011, and was referred to the Natural Resources Subcommittee on National Parks, Forests and Public Lands. The subcommittee discharged the legislation by unanimous consent. The full committee held a hearing on February 29, 2012, and reported the legislation by voice vote, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: Based on information provided by NPS, CBO estimates that implementing H.R. 1335 would cost about \$1 million over the next two years, assuming the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. This legislation would lead to an increase in the size of Gettysburg National Military Park.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-449 states “H.R. 1335 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation does not contain earmarks, limited tax benefits or limited tariff benefits.

Constitutional Authority: Rep. Platts states “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, and Article I, Section 8, clause 18.” The statement can be [viewed here](#).

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