

**H.R. 5102, H.R. 5185 and H.R. 5513**

---

**LEGISLATIVE HEARING**

BEFORE THE

SUBCOMMITTEE ON FORESTS AND  
FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

October 10, 2002

**Serial No. 107-157**

Printed for the use of the Committee on Resources



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>  
or  
Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

82-315 PS

WASHINGTON : 2003

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

## COMMITTEE ON RESOURCES

JAMES V. HANSEN, Utah, *Chairman*  
NICK J. RAHALL II, West Virginia, *Ranking Democrat Member*

Don Young, Alaska, <i>Vice Chairman</i>	George Miller, California
W.J. "Billy" Tauzin, Louisiana	Edward J. Markey, Massachusetts
Jim Saxton, New Jersey	Dale E. Kildee, Michigan
Elton Gallegly, California	Peter A. DeFazio, Oregon
John J. Duncan, Jr., Tennessee	Eni F.H. Faleomavaega, American Samoa
Joel Hefley, Colorado	Neil Abercrombie, Hawaii
Wayne T. Gilchrest, Maryland	Solomon P. Ortiz, Texas
Ken Calvert, California	Frank Pallone, Jr., New Jersey
Scott McInnis, Colorado	Calvin M. Dooley, California
Richard W. Pombo, California	Robert A. Underwood, Guam
Barbara Cubin, Wyoming	Adam Smith, Washington
George Radanovich, California	Donna M. Christensen, Virgin Islands
Walter B. Jones, Jr., North Carolina	Ron Kind, Wisconsin
Mac Thornberry, Texas	Jay Inslee, Washington
Chris Cannon, Utah	Grace F. Napolitano, California
John E. Peterson, Pennsylvania	Tom Udall, New Mexico
Bob Schaffer, Colorado	Mark Udall, Colorado
Jim Gibbons, Nevada	Rush D. Holt, New Jersey
Mark E. Souder, Indiana	Anibal Acevedo-Vila, Puerto Rico
Greg Walden, Oregon	Hilda L. Solis, California
Michael K. Simpson, Idaho	Brad Carson, Oklahoma
Thomas G. Tancredo, Colorado	Betty McCollum, Minnesota
J.D. Hayworth, Arizona	Tim Holden, Pennsylvania
C.L. "Butch" Otter, Idaho	
Tom Osborne, Nebraska	
Jeff Flake, Arizona	
Dennis R. Rehberg, Montana	

Tim Stewart, *Chief of Staff*  
Lisa Pittman, *Chief Counsel/Deputy Chief of Staff*  
Steven T. Petersen, *Deputy Chief Counsel*  
Michael S. Twinchek, *Chief Clerk*  
James H. Zoia, *Democrat Staff Director*  
Jeffrey P. Petrich, *Democrat Chief Counsel*

---

## SUBCOMMITTEE ON FORESTS AND FOREST HEALTH

SCOTT McINNIS, Colorado, *Chairman*  
JAY INSLEE, Washington, *Ranking Democrat Member*

John J. Duncan, Jr., Tennessee	Dale E. Kildee, Michigan
John E. Peterson, Pennsylvania, <i>Vice Chairman</i>	Tom Udall, New Mexico
Mark E. Souder, Indiana	Mark Udall, Colorado
Michael K. Simpson, Idaho	Rush D. Holt, New Jersey
Thomas G. Tancredo, Colorado	Anibal Acevedo-Vila, Puerto Rico
J.D. Hayworth, Arizona	Betty McCollum, Minnesota
C.L. "Butch" Otter, Idaho	

## C O N T E N T S

---

	Page
Hearing held on October 10, 2002 .....	1
Statement of Members:	
Gallegly, Hon. Elton, a Representative in Congress from the State of California .....	27
Prepared statement on H.R. 5185 .....	29
Hayworth, Hon. J.D., a Representative in Congress from the State of Arizona .....	3
Prepared statement on H.R. 5513 .....	5
Hefley, Hon. Joel, a Representative in Congress from the State of Colorado, prepared statement on H.R. 5102 .....	2
Inslee, Hon. Jay, a Representative in Congress from the State of Washington .....	6
Statement of Witnesses:	
Gioia, Tony, Camp Verde, Arizona .....	9
Prepared statement on H.R. 5513 .....	11
Hamilton, Larry, Director, Fire and Aviation, Bureau of Land Management, U.S. Department of the Interior .....	29
Prepared statement on H.R. 5102 and H.R. 5185 .....	31
Resavage, Roy, President, Helicopter Association International .....	34
Prepared statement on H.R. 5102 and H.R. 5185 .....	36
Ruskin, Fred, Manager, Yavapai Ranch Limited Partnership .....	12
Prepared statement on H.R. 5513 .....	14
Thompson, Tom L., Deputy Chief, National Forest System, U.S. Department of Agriculture, statement on H.R. 5513 .....	6
Statement on H.R. 5102 and H.R. 5185 .....	32
Prepared statement on H.R. 5102, H.R. 5185 and H.R. 5513 .....	7



**LEGISLATIVE HEARING ON H.R. 5513 TO AUTHORIZE AND DIRECT THE EXCHANGE OF CERTAIN LAND IN THE STATE OF ARIZONA BETWEEN THE SECRETARY OF AGRICULTURE AND YAVAPAI RANCH LIMITED PARTNERSHIP; H.R. 5185 TO REMOVE A RESTRICTION ON THE AUTHORITY OF THE SECRETARY OF AGRICULTURE AND THE SECRETARY OF THE INTERIOR TO ENTER INTO AGREEMENTS WITH ANY FEDERAL AGENCY TO ACQUIRE GOODS AND SERVICES DIRECTLY RELATED TO IMPROVING OR USING THE WILDFIRE FIGHTING CAPABILITY OF THOSE AGENCIES; AND H.R. 5102 TO EXPEDITE THE PROCESS BY WHICH THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF AGRICULTURE MAY UTILIZE AIRCRAFT TO FIGHT WILDFIRES, AND FOR OTHER PURPOSES.**

---

**Thursday, October 10, 2002  
U.S. House of Representatives  
Subcommittee on Forests and Forest Health  
Committee on Resources  
Washington, DC**

---

The Subcommittee met, pursuant to notice, at 12:30 p.m., in room 1334, Longworth House Office Building, Hon. J.D. Hayworth presiding.

Mr. HAYWORTH. The Subcommittee on Forests and Forest Health will come to order. The Subcommittee is meeting today to hear testimony on H.R. 5513, the Yavapai Ranchland Exchange Refinement Act of 2002, which I am privileged to sponsor; H.R. 5185, the Wildfire Response Enhancement Act, sponsored by Mr. Gallegly and Mr. Gibbons; and H.R. 5102, the Wildfire Response Act of 2002, sponsored by Mr. Hefley.

The Chair would pose at this time again to thank all of you rolling with the changes in today's schedule. The Chair appreciates your willingness to stay, and I am cognizant of the fact that it changes some schedules and again we thank you very much.

At this point, I would ask unanimous consent that Representatives Gallegly, Gibbons, and Flake have permission to sit on the dais and participate in the hearing. There is nobody here to object, so guess what? It is so ordered.

Due to the postponement, Mr. Hefley will not be able to make today's hearing, but he has asked that his statement be submitted into the record and, without objection, that is so ordered.

[The prepared statement of Mr. Hefley follows:]

**Statement of Hon. Joel Hefley, a Representative in Congress from the State of Colorado**

Mr. Chairman, thank you for scheduling this hearing today on my bill, H.R. 5102.

The purpose of my bill is simple. As things currently stand, when fighting forest fires the Department of Interior and the U.S. Forest Service are required to comply with the dictates of the Economy Act of 1931. That law, intended to insure that the federal government does not compete with the private sector, requires that government agencies exhaust all commercial vendors of such things as aviation services before turning to military assets. My bill would allow these federal agencies to waive this requirement for fighting wildfires and submit to Congress the reasons for exercising the exception.

In general, the present policy has worked well. It has freed the government from the need to maintain an aircraft fleet solely for firefighting and held down costs. I have no argument with its overall intent. My argument, and the rationale for H.R. 5102, is that in times of emergency these federal agencies should have the flexibility to access all available materiel to respond to a disaster, such as a forest fire, regardless of whether the materiel is civilian or military.

My interest in this subject was prompted by the recent Hayman fire in Colorado. That Hefley fire was discovered at approximately 4 p.m. on June 8. The Forest Service said it responded aggressively to the blaze within 45 minutes. That response included four aerial tankers.

Approximately 50 miles away, in Colorado Springs, two C-130 cargo planes were parked on the runway at Peterson Air Force Base. Attached to the 302nd Airlift Wing, U.S. Air Force Reserve, the planes and their crews were trained and equipped to drop flame retardant on forest fires. Indeed, the crews had, in past years, be-moaned the fact they were often among the last units called up to fight forest fires in the Pacific Northwest and California. The base was also equipped with a number of Modular Airborne Fire Fighting Systems, or MAFFS units.

As the fire grew, my district office in Colorado Springs was inundated with calls from constituents asking why the C-130s were still parked on the runway at Peterson and not in the air fighting fires. The short answer was that the Forest Service had judged they were not needed at the time. At the height of the Haman and other fires in Colorado last June, the Forest Service had 23 tankers in the air. The longer answer is that the Peterson MIFFS units lacked the bladders needed to haul retardant. Eventually, the tankers were called up, the bladders were installed and the C-130s joined the effort on Friday, June 14.

Since June, I have learned to my satisfaction that the use of the C-130s at Peterson were not an issue in the air coverage of the Hayman fire. But while researching the issue, Forest Service personnel admitted they were looking for a Type 3 Skymaster helicopter to aid in another fire near Grand Junction. My office offered its assistance with the military but were told that procedures required that civilian vendors be exhausted first.

At a meeting with representatives of the Forest Service's aviation section, Tony Kern, National Aviation Officer, admitted that it was conceivable that fire fighters might, at times, run into a situation where being able to access available military assets might be useful in containing a wildfire at an early stage, before it spread. It should be noted that virtually of the Haman fire almost 138,000 acres burned on the second day.

Since introducing this legislation on July 11, I have heard from a number of organizations representing the aerial contractors involved in forest fire fighting. I have heard there is no problem. That if there is a problem, it can be handled with exist-

ing procedures. Finally, I have read quotes in an Arizona newspaper that enacting my bill would be devastating to this industry. I have even heard that this bill was a plot by the military to take over all forest fire fighting operations and drive private industry out of business.

After introducing this bill, I learned of a second bill, H.R. 5185, introduced by my friend and colleague, Mr. Gallegly of California. His original bill, introduced in 1993, was prompted by a similar situation in Ventura County, California. In researching my bill and this statement, our staffs compared notes and found that the arguments raised against our 2002 bills were identical to those raised against Mr. Gallegly's bill in 1993.

Mr. Chairman, since becoming involved in the forest fire fighting issues, I have become impressed by the similarities between fighting fires and fighting a war. One of the most important tenets of war is to bring all available force to bear at the outset. "Git thar fustest with the mostest." Another is to direct all efforts toward your end objective. My bill seeks to give federal agencies the flexibility to do that. If we can stop a Hayman-type fire in its initial stages with civilian aircraft, we should do that. If we can stop the same fire in its initial stages with military aircraft, we should do that. The objective is to contain and stop the fire and protect public lives, land and property. It is not to be chained to procedures or insure contracts. As things stand now, federal agencies are in the position of an emergency medical technician who comes across as accident victim laying on the road in front of him. The EMT has all the training needed to treat the accident victim but procedures require the EMT to call 9-1-1 and wait for an ambulance to arrive. That would be absurd. The objective is to treat the victim and save his life ... and the objective here is contain and stop the fire and protect public lives, property and land.

---

**STATEMENT OF THE HON. J.D. HAYWORTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA**

Mr. HAYWORTH. While we await the arrival of the ranking minority member, I would take advantage of the opportunity to offer my opening statement on the legislation that I have introduced.

Congressman Bob Stump and I have introduced the bill, H.R. 5513, together with Congressman Flake, because it will achieve several important goals. First, it will consolidate 110 square miles of land at the northern tip of the Prescott National Forest, or some would say in our neck of the woods Prescott National Forest, into solid Forest Service ownership.

This area on the Yavapai Ranch contains beautiful high-elevation ponderosa pine forest land, part of the upper watershed of the Verde River, and a large area of critical habitat for pronghorned antelope. It is also adjacent to the Juniper Mesa Wilderness Area.

Both the Forest Service and the Arizona Department of Game and Fish believe the land consolidation is important to meet long-term needs for the protection of wildlife habitat and outdoor recreation. And I would stress they have reviewed the lands to be exchanged and feel that the lands the Forest Service is acquiring are far more valuable for wildlife and recreation than the lands the Forest Service is giving up.

This exchange will also convey lands to the communities of Williams and Flagstaff into six youth summer camps for their long-term use. There has not been a time in recent memory that I have not been to Flagstaff and haven't heard from the mayor and city council members about the urgency of this exchange from their vantage point.

Now, we have heard from some residents of Arizona and from outside organizations that this land exchange should be processed through normal administrative procedures. However, when we

asked the Forest Service about the timeframe of the administrative change, we would told that it would likely take 7 to 8 years, if it were accomplished at all.

The cities of Flagstaff and Williams in the Verde Valley, as well as the youth camps involved in the exchange, simply do not want to have to wait so long for what at best would be an uncertain outcome, given the appeals and lawsuits that seem to accompany almost everything our Forest Service has done in recent memory.

So it seems to me we have two choices here. Either we legislate this land exchange so that it will be completed in the next year or so or we do nothing and watch the Yavapai Ranch be subdivided and developed, and the communities of Flagstaff, Williams, and Camp Verde and the summer camps lose the opportunity to acquire the lands they need for their future needs. The Forest Service also loses an opportunity to consolidate a major parcel of land on the Prescott National Forest. I think the choice is fairly obvious.

Other benefits of this legislation are numerous. It will protect water flows in the Verde Valley, and the bill requires that the lands the Yavapai Ranch acquires in the Cottonwood, Clarkdale and Camp Verde area be subject to strict water use limitations, including a prohibition on the construction of golf courses.

To my knowledge, the water usage restrictions we are imposing are precedent-setting in nature and, in my opinion, should be viewed as a very progressive development. Of over 50,000 acres of private land in the Verde Valley and the immediate surrounding tributary drainages, the 3,000 acres covered by our water use restrictions are the only acres to have such restrictions on them.

So I am somewhat puzzled by those who say this bill will adversely impact water use. Quite to the contrary, by protecting large acreages in the head waters of the Verde River from subdivision development and by placing water use restrictions on the national forest lands that become private, this bill should have a major positive impact on future water use.

H.R. 5513, while introduced late in the session is anything but a rush job. In fact, officials of the Prescott National Forest and Yavapai Ranch have been working on the details of proposal for more than 3 years now and have been working closely with my staff and Congressman Stump's staff for most of that time as well.

In addition, the communities of Flagstaff, Williams, Cottonwood, Clarkdale and Camp Verde have held numerous public meetings on the proposal, and there have also been many public workshops and other meetings sponsored by environmental groups and others where the Forest Service has explained the proposal to the public. So this has been a very open process, with major newspaper coverage as well.

There is also a long list of organizations, local governments, and other groups that support H.R. 5513, including the city councils of Flagstaff, Williams, Camp Verde, Cottonwood and Clarkdale, the Yavapai County Board of Supervisors, the Salt River Project, Arizona Game and Fish Department, Flagstaff Chamber of Commerce, Greater Flagstaff Economic Council, Williams Chamber of Commerce, Camp Verde Chamber of Commerce, Cottonwood Chamber of Commerce, Grand Canyon Trust, Sedona-Verde Valley Realtors,



Wildlife Conservation Council, Arizona Antelope Foundation, and last but not least, the Arizona Mule Deer Association.

I ask unanimous consent to insert letters of endorsement from these organizations into the record. Hearing no objection, it is so ordered.

[The information has been retained in the Committee's official files.]

[The prepared statement of Mr. Hayworth follows:]

**Statement of Hon. J.D. Hayworth, a Representative in Congress from the State of Arizona**

Congressman Bob Stump and I have introduced this bill, H.R. 5513, together with Congressman Flake, because it will achieve several important goals.

First, it will consolidate 110 square miles of land at the northern tip of the Prescott National Forest into solid Forest Service ownership. This area on the Yavapai Ranch contains beautiful high elevation ponderosa pine forestland, part of the upper watershed of the Verde River, and a large area of critical habitat for pronghorn antelope. It is also adjacent to the Juniper Mesa Wilderness Area. Both the Forest Service and the Arizona Department of Game and Fish believe the land consolidation is important to meet long term needs for the protection of wildlife habitat and outdoor recreation".and".I would stress, they have reviewed the lands to be exchanged and feel that the lands the Forest Service is acquiring are far more valuable for wildlife and recreation than the lands the Forest Service is giving up.

This exchange will also convey lands to the communities of Williams and Flagstaff, and to 6 children's summer camps for their long term use. There has not been a time in recent memory that I have been to Flagstaff and haven't heard from the Mayor and City Council members about the urgency of this exchange.

Now, we have heard from some residents of Arizona, and from some outside organizations, that this land exchange should be processed through normal administrative procedures. However, when we asked the Forest Service about the time-frame of an administrative exchange, we were told that it would likely take 7-8 years, if it were accomplished at all. The cities of Flagstaff, Williams, and the Verde Valley, as well as the youth camps involved in the exchange simply do not want to have to wait so long for what would be at best an uncertain outcome, given the appeals and lawsuits that seem to accompany almost everything the Forest Service does recently.

So, it seems to me that we have two choices here. Either we legislate this land exchange so that it will be completed in the next year or so, or we do nothing and watch the Yavapai Ranch be subdivided and developed, and the communities of Flagstaff, Williams and Camp Verde, and the summer camps, lose the opportunity to acquire the lands they need for their future needs. The Forest Service also loses an opportunity to consolidate a major parcel of land on the Prescott National Forest. I think the choice is clear.

Other benefits of this legislation are numerous. It will protect water flows in the Verde Valley, and the bill requires that the lands the Yavapai Ranch acquires in Cottonwood /Clarkdale and Camp Verde be subject to strict water use limitations, including a prohibition on the construction of golf courses. To my knowledge, the water use restrictions we are imposing are precedent-setting in nature, and in my opinion, should be viewed as a very progressive development. Of over 50,000 acres of private land in the Verde Valley and immediate surrounding tributary drainages, the 3,000 acres covered by our water use restrictions are the ONLY acres to have such restrictions on them. So, I am somewhat puzzled by those who say this bill will adversely impact water use. Quite to the contrary, by protecting large acreage in the headwaters of the Verde River from subdivision and development, and by placing water use restrictions on the National Forest lands that become private, this bill should have a major positive impact on future water use.

H.R. 5513, while introduced late in the session, is anything but a rush job. In fact, officials of the Prescott National Forest and the Yavapai Ranch have been working on the details of the proposal for more than 3 years now, and have been working closely with my staff, and Congressman Stump's staff, for most of that time. In addition, the communities of Flagstaff, Williams, Cottonwood, Clarkdale and Camp Verde have held numerous public meetings on the proposal, and there have also been many public workshops and other meetings, sponsored by environmental and others, where the Forest Service has explained the proposal to the public. So this has been a very open process, with major newspaper coverage as well.

There is also a long list of organizations, local governments and other groups that support H.R. 5513, including the city councils of Flagstaff, Williams, Camp Verde, Cottonwood, and Clarkdale, the Yavapai County Board of Supervisors, Salt River Project, Arizona Game and Fish Department,

Flagstaff Chamber of Commerce, Greater Flagstaff Economic Council, Williams Chamber of Commerce, Camp Verde Chamber of Commerce, Cottonwood Chamber of Commerce, Grand Canyon Trust, Sedona-Verde Valley Realtors, Wildlife Conservation Council, Arizona Antelope Foundation, and the Arizona Mule Deer Association.

I ask unanimous consent to insert letters of endorsement from these organizations into the record.

---

Mr. HAYWORTH. The Chair now welcomes our friend from Washington State, the ranking minority member on the Subcommittee, Mr. Inslee, for any opening statements he might have.

**STATEMENT OF THE HON. JAY INSLEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Mr. INSLEE. Following that brilliance, I can't top it, so I am going to just look forward to the testimony. Thank you, Mr. Chair.

Mr. HAYWORTH. Well, thank you to the gentleman from Washington State. We thank you for being here and the chance to hear from our witnesses.

Now, I would like to introduce witnesses for our first bill, H.R. 5513, which I have discussed. On panel one, we have Mr. Tom Thompson, Deputy Chief, National Forest System, U.S. Department of Agriculture; Mr. Tony Gioia, Verde Valley, Arizona; and Mr. Fred Ruskin, Manager, Yavapai Ranch Limited Partnership.

I would like to take this opportunity to remind the witnesses that under our Committee rules you must limit your oral statements to 5 minutes, but your entire statement will appear in the record.

It is my privilege now to welcome and recognize Mr. Thompson for his opening remarks. Welcome, sir.

**STATEMENT OF TOM THOMPSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE ON H.R. 5513**

Mr. THOMPSON. Thank you, Mr. Chairman, for this opportunity to appear before you today. I am Tom Thompson, Deputy Chief of the National Forest System, and I will present the administration's views on H.R. 5513, the Yavapai Ranch Land Exchange Refinement Act of 2002.

The administration supports the concept of a land exchange with the Yavapai Ranch and has worked for a number of years to craft administrative and legislative options to arrive at a mutually beneficial exchange of approximately 55,000 acres of Federal and non-Federal lands.

An exchange offers substantial benefits to both parties and the public. The forests would benefit from simplified boundary management and reduced administrative costs and acquisition of lands adjacent to the Juniper Mesa Wilderness, which will have significant forest, wildlife, and recreation values. The public would benefit from the exchange of land for commercial and residential growth

and for community services. Overall, this exchange could be beneficial in the public interest.

The administration will support this legislation if a crucial change is made to the land valuation section of the bill, Section 5(b)(3)(B)(i)(3). This provision requires the appraiser to diminish the value of the Federal lands to the Camp Verde and Cottonwood declarations entered into between the Yavapai Ranch and the Salt River Project.

These declarations purport to restrict the use of water on several Federal parcels and were negotiated without Federal participation. The declarations' net effect on the value of the Federal lands involved in the exchange would be substantially negative.

For example, the typical number of units allowed for residential purposes based on current zoning and market-based indicators regarding the development of Federal parcels indicates a range of four to six units per acre, whereas the declarations would allow only one residential unit for two acres.

This devaluation would result in the transfer of far more Federal land to the owners of Yavapai Ranch and its related limited liability corporation than would otherwise occur if the market value of the Federal estate were fully and fairly valued. As a result, the public would not receive fair value for this transfer of public lands and would be irretrievably damaged by this section. In addition, the administration is concerned with the precedent that would be set by this bill with regard to future management of private lands transferring into Federal ownership.

While the Forest Service has worked with the Yavapai Ranch to craft language that gives the Federal land managers more authority to manage the land for public benefit, land management will not be tied directly to the forest planning process. This may foreclose future public participation and management that would otherwise be available to the public and the Forest Service through that process.

Although this legislative proposal deviates somewhat from our standard administrative process, except for the proposed devaluing of Federal lands affected by declarations, there are adequate safeguards in this proposal to ensure that the exchange will be of equal value and complement the involved forest lands and resource management plans and overall is in the public interest.

This concludes my statement. I would be happy to answer any questions which you might have.

[The prepared statement of Mr. Thompson follows:]

**Statement of Tom Thompson, Deputy Chief, National Forest System, Forest Service, U.S. Department Of Agriculture**

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today. I am Tom Thompson, Deputy Chief for National Forest System. With me today is Jerry Williams, Director of Fire and Aviation. I would like to present the Administration's views on H.R. 5102—the Wildfire Response Act of 2002, H.R. 5185—the Wildfire Response Enhancement Act, and H.R. 5513—the Yavapai Ranch Land Exchange Refinement Act of 2002.

Before discussing these bills I would like to take a few moments to update you on the status of our aviation program. As you are well aware, this has been an unusual fire season. Not only have we seen a dramatic increase in fire intensity and loss of resources, but because of the loss of human life, this has been a tragic year for our aviation firefighting program.

The United States Department of Agriculture Forest Service and the Department of the Interior administer a challenging aviation program to support the national firefighting effort. We contract for 44 large airtankers, over 100 exclusive use helicopters, and nearly 300 more “call when needed” helicopters. These aircraft are flown by highly professional pilots and form the backbone of our airborne resources and are more than adequate to meet our needs during a normal fire season.

However, the meaning of a “normal” fire season has changed with the conditions of the forests, and in both 2000 and 2002 the military provided a critical surge capacity. Occasionally, we may need to call upon these resources under time sensitive conditions to meet urgent requirements.

Chief Dale Bosworth and Kathleen Clarke, Director of the BLM, decided we needed to step back and get an objective, outside view of our program so they jointly commissioned a blue ribbon fact-finding panel to determine the adequacy of our current aviation program.

This fact-finding panel includes some of the best minds in the fire and aviation community. Included are a former Chairman of the NTSB (National Transportation Safety Board), the State Forester of Texas, and the previous Director of the Transportation Safety Board of Canada.

The panel is expected to issue its report by this November. The report is expected to identify strengths, weaknesses, and failpoints and provide information in five areas: safety, operational effectiveness, costs, sustainability, and strategic guidance.

Using information from this comprehensive report, both Agencies will be in a much better position to meet the complex short and long term challenges of our firefighting and aviation program. We will share the panel’s findings, and our proposed actions, with you when they are available.

*H.R. 5102 - The Wildfire Response Act of 2002 and H.R. 5185—Wildfire Response Enhancement Act*

As you are well aware, the 2002 fire season was one of the most devastating seasons in recent memory. Not only have we seen a dramatic increase in fire intensity and loss of resources, but because of the loss of human life, this has been a tragic year for our aviation firefighting program. I want to thank the Committee for its support of our ongoing efforts to continuously improve our wildland firefighting capabilities.

I now turn to H.R. 5102, which would give the Secretaries of Agriculture and Interior expedited authority to utilize military aircraft and attendant personnel to fight wildfires without first comparing costs of procuring the same services from a commercial enterprise as currently required by the Economy Act, and H.R. 5185, legislation that is somewhat broader than H.R. 5102, which would give us the option to use military resources without making the determination that commercial sources were unavailable.

We appreciate the Committee’s desire to ensure the Department is vested with the flexibility needed to access cost-effective quality sources in a timely manner, including in emergency situations. We believe that sufficient flexibility currently exists under the Economy Act to achieve the objectives of this legislation and, for this reason, cannot support the legislative changes proposed by these bills.

*H.R. 5513 - the Yavapai Ranch Land Exchange Refinement Act of 2002*

The Administration supports the concept of a land exchange with the Yavapai Ranch and has worked for a number of years to craft administrative and legislative options to arrive at a mutually beneficial exchange of approximately 55,000 acres of federal and non-federal lands.

An exchange offers substantial benefits to both parties and the public. The Forest would benefit from simplified boundary management and reduced administrative costs and the acquisition of lands adjacent to the Juniper Mesa Wilderness, which have significant forest, wildlife, and recreation values. The public would benefit from the addition of land for commercial and residential growth and for community services. Overall, this exchange could be beneficial and in the public interest.

The Administration will support this legislation if a crucial change is made to the land valuation section of the bill. Section 5(b)(3)(B)(i)(III) requires the appraiser to diminish the value of the federal lands due to the Camp Verde and Cottonwood declarations entered into between the Yavapai Ranch and the Salt River Project.

These declarations purport to restrict the use of water on several federal parcels and were negotiated without federal participation. The declarations’ net effect on the value of the federal lands involved in the exchange would be substantially negative. For example, the typical number of units allowed for residential purposes based on current zoning and market-based indicators regarding the development of

the Federals parcel indicates a range from 4 to 6 units per acre, whereas the declarations would allow only one residential unit for two acres.

This devaluation would result in the transfer of far more federal land to the owners of the Yavapai Ranch and its related limited liability corporation than would otherwise occur if the market value of the federal estate were fully and fairly valued. As a result, the public would not receive fair value for this transfer of public lands and would be irretrievably damaged by this section.

In addition, the Administration is concerned with the precedent that would be set by this bill with regard to the future management of private lands transferring into federal ownership. While the Forest Service has worked with the Yavapai Ranch to craft language that gives federal land managers more authority to manage the land for the public benefit, land management will not be tied directly to the forest planning process. This may foreclose future public participation and management actions that would otherwise be available to the public and Forest Service through that process.

Although this legislative proposal deviates somewhat from our standard administrative process, except for the proposed, "devaluing of the federal lands affected by the Declarations," there are adequate safeguards in this proposal to ensure that the exchange will be of equal value and complement the involved Forest lands and resource management plans, and overall, is in the public interest.

This concludes my statement. I would be happy to answer any questions you may have.

---

Mr. HAYWORTH. Mr. Thompson, we thank you for that opening statement.

The Chair would also welcome the gentleman from California and the gentlelady from Minnesota to the dais and we thank you for that.

The Chair should also issue an apology to my friend from the Verde Valley.

Tony, I believe I mispronounced your last name. It is Gioia, right?

Mr. GIOIA. That happens all the time.

Mr. HAYWORTH. Well, forgive me for that. I don't know why I transposed an "l" in there, but, Tony, we welcome you here today and look forward to your testimony. You are now recognized for 5 minutes.

#### **STATEMENT OF TONY GIOIA, VERDE VALLEY, ARIZONA**

Mr. GIOIA. I appreciate that. Good morning, Mr. Chairman, members of the Committee. Thank you for allowing me the opportunity to testify against H.R. 5513, the proposed Yavapai Ranch Land Exchange.

My name is Tony Gioia. I am Vice Mayor of the Town of Camp Verde, Arizona. Today, I speak as a private citizen representing thousands of concerned residents and a number of elected officials in the Verde Valley.

I am deeply involved in water supply issues in my region. I am co-chairman of the Yavapai County Water Advisory Board and Chair of the Middle Verde River Planning Committee, a group formed to implement the Arizona Department of Water Resources Rural Watershed Initiative. I also participate in many other planning intergovernmental entities.

I have with me copies of letters right here sent to the Arizona delegation and other Members of Congress from citizens and elected officials in the Verde Valley who are opposed to the trading away of these public lands in our area. I also have a large number of petitions signed to that effect, along with a media survey which

shows 94 percent of the respondents opposed the Verde portions of the trade.

In 1998, citizens in the Verde Valley began to hear about a land exchange proposed that would privatize national forest lands near the towns of Camp Verde, Clarkdale, and Cottonwood. When we inquired with both the Forest Service and the proponent, Mr. Ruskin, we learned that the exchange would not go through the normal agency process, but through legislation. The bill has since been put together by Mr. Ruskin's lobbyist and negotiated with a Member of Congress who does not represent our particular district.

Of the 20,000-plus acres of land Mr. Ruskin would get in the trade, he would receive more than 3,000 of acres of national forest land in the Verde Valley for residential and commercial development. In the Camp Verde area alone, there have already been thousands of acres of private land that remain undeveloped. We are faced with a crisis over ensuring sustainable growth on the existing land base and this project would only exacerbate that difficulty.

Water supply is an extremely serious problem in the Verde Valley, where increased development has over-taxed groundwater supplies and dried up many residential wells. The Verde Valley is also engaged in a legal battle with Salt River Project over surface water supplies.

Water supply and water quality are closely linked, so we also face such issues as arsenic concentration, E. coli contamination, and other threats to a safe water supply. Like much of the arid West, our towns are having to look far afield just to find water to sustain present development and are even considering projects to bring Colorado River water by pipeline from perhaps hundreds of miles away. It has been done before.

The U.S. Geological Survey recently released a fact sheet on the hydrogeology of the Verde River watershed as part of an investigation under the Rural Watershed Initiative. This paper, submitted to the record along with other materials on water, acknowledges that the present and water situation in our valley is largely unknown. It poses seven fundamental questions that must be answered concerning our hydrogeologic system, including questions regarding recharge, flow boundaries, sources of base flow, and the effects of human water use now and in the future.

The Verde Valley parcels that would go to Mr. Ruskin sit on top of what is called the Verde Fault, from which water is already being drawn by the Camp Verde Water Company and the Cottonwood Waterworks. As a further indication of our lack of certainty about water supply, it is believed that the Fault in some cases acts as a dam and in other cases a pipeline for groundwater flow. In any case, evidence suggests that groundwater recharge is insufficient to meet existing needs in the area.

Another basis for so many citizens' opposition to this proposal has been the circumvention of the National Environmental Policy Act. We badly need the environmental analysis that comes with NEPA to understand the potential impacts on water supply and all of the environmental consequences to the vast area of the exchange.

The aspect of NEPA that would be especially worthwhile in this case is the requirement that alternatives for a project be considered. No one disputes the benefits of consolidating public ownership in the checkerboard lands of the Prescott National Forest, but there is substantial controversy over almost every other aspect of the trade.

Surely, there are alternatives that could provide some of the public benefit of this exchange and also profit Mr. Ruskin. Instead, we are offered an all-or-nothing proposition, with potentially devastating impacts to our community.

In conclusion, we ask, as we have for 4 years, that the exchange go through only the administrative process and in pursuance of the public interest above all else. Should the legislation proceed, we implore you, remove from this proposal all national forest lands in the Verde Valley.

Thank you very much.

[The prepared statement of Mr. Gioia follows:]

[Attachments to Mr. Gioia's statement have been retained in the Committee's official files.]

**Statement of Tony Gioia, Resident, Camp Verde, Arizona**

Good morning, Mr. Chairman and members of the committee. Thank you for allowing me the opportunity to testify against HR 5513, the proposed Yavapai Ranch Land Exchange.

My name is Tony Gioia. I am vice-mayor of the town of Camp Verde, Arizona. Today I speak as a private citizen, representing thousands of concerned residents and a number of elected officials in the Verde Valley. I am deeply involved in water supply issues in my region. I am Co-chair of the Yavapai County Water Advisory Board and Chair of the Middle Verde River Planning Committee, a group formed to implement the Arizona Department of Water Resources Rural Watershed Initiative. I also participate in many other planning entities.

In 1998, citizens in the Verde Valley began to hear about a land exchange proposal that would privatize national forest land near the towns of Camp Verde, Clarkdale, and Cottonwood. When we inquired with both the Forest Service and the proponent, Mr. Ruskin, we learned that the exchange would not go through the normal agency process, but through legislation. The bill has since been put together by Mr. Ruskin's lobbyist and negotiated with a member of Congress who does not even represent our district.

Of the 20,000+ acres of land Mr. Ruskin would get in the trade, he would receive more than 3,000 acres of national forest land in the Verde Valley for residential and commercial development. In the Camp Verde area alone, there are already thousands of acres of private land that remain undeveloped. We are faced with a crisis over ensuring sustainable growth on the existing land base, and this project would only exacerbate that difficulty.

Water supply is an extremely serious problem in the Verde Valley, where increased development has overtaxed groundwater supplies and dried up many residential wells. The Verde Valley is also engaged in a legal battle with the Salt River Project over surface water supplies. Water supply and water quality are closely linked, so we also face such issues as arsenic concentration, e-coli contamination, and other threats to a safe water supply. Like much of the arid West, our towns are having to look far afield just to find water to sustain present development and are even considering projects to bring Colorado River water by pipeline from perhaps hundreds of miles away.

The US Geological Survey recently released a fact sheet on the hydrogeology of the Verde River watershed as part of an investigation under the Rural Watershed Initiative. This paper (submitted to the record along with other materials on water) acknowledges that the present and future water situation in our valley is largely unknown. It poses seven fundamental questions that must be answered concerning our hydrogeologic system, including questions regarding recharge, flow boundaries, sources of base flow, and the effects of human water use now and in the future.

The Verde Valley parcels that would go to Mr. Ruskin sit on top of what is called the Verde Fault, from which water is already being drawn by Camp Verde Water

Company and the Cottonwood Waterworks. As a further indication of our lack of certainty about water supply, it is believed that the Fault in some cases acts as a dam and in other cases a "pipeline" for groundwater flow. In any case, evidence suggests that groundwater recharge is insufficient to meet existing needs in the area.

Another basis for so many citizens' opposition to this proposal has been the circumvention of the National Environmental Policy Act. We badly need the environmental analysis that comes with NEPA to understand the potential impacts on water supply and all of the environmental consequences to the vast area of this exchange.

The aspect of NEPA that would be especially worthwhile in this case is the requirement that alternatives for a project be considered. No one disputes the benefit of consolidating public ownership in the checkerboard lands of the Prescott National Forest, but there is substantial controversy over almost every other aspect of the trade.

Surely there are alternatives that could provide some of the public benefits of this exchange and also profit Mr. Ruskin. Instead, we are offered an all-or-nothing proposition with potentially devastating impacts to our communities.

In conclusion, we ask, as we have for four years, that the exchange go forward only through the administrative process and in pursuance of the public interest above all else. Should the legislation proceed, we implore you to remove from this proposal all national forest lands in the Verde Valley.

Mr. HAYWORTH. Thank you, Mr. Gioia. As you cited the different pieces of correspondence in the petitions, would you like those included in the record?

Mr. GIOIA. Yes, I would.

Mr. HAYWORTH. I therefore at this point ask unanimous consent to include that as part of your testimony. There is no objection, so that will be included along with your testimony and we thank you for being here.

[The information has been retained in the Committee's official files.]

Mr. HAYWORTH. Mr. Ruskin?

**STATEMENT OF FRED RUSKIN, MANAGER, YAVAPAI RANCH  
LIMITED PARTNERSHIP**

Mr. RUSKIN. Chairman Hayworth and members of the Subcommittee, my name is Fred Ruskin. My family owns the Yavapai Ranch. Ours is a family owned ranch. I have personally run the ranch since my father died in 1981. We don't have other investments, other businesses, a Keogh plan, a lot of stocks. We just have this ranch.

As you can see from the existing land ownership map attached to my testimony, we own approximately 50,000 acres, around 85 square miles outright, mingled in this checkerboard fashion with national forest land. Our ranch represents better than 90 percent of all the undeveloped private lands in all the national forests in Arizona.

As I said, this ranch represents my family's only major financial asset. It has been obvious for some time that it wasn't feasible to tie up this increasingly valuable piece of land just to run cattle on it. The recent drought in Arizona has made the cattle business even less attractive, while the growth of the surrounding area has made the ranch even more desirable for development.

We now have land on two sides of the ranch being subdivided as a I speak, for what would be the largest private development in northern Arizona. A city bigger than Prescott is planned for the third side of the ranch.



We have been working on an exchange with the Forest Service for a long time. I have been working on this exchange for better than 6 years, and working virtually full-time on it for the last 3 years. I am here to ask your assistance with this land exchange today because, as you heard from Congressman Hayworth, there is no reasonable timeframe in which the Forest Service could accomplish this exchange by any other mechanism.

It has been taking the 7 or 8 years mentioned in Arizona to do a 50-acre exchange. This is a 55,000-acre exchange taking place in 2 counties, 5 cities, and three national forests. My family obviously can't continue to commit the time and resources to this thing for a process that might never happen.

I would also point out to you that virtually all the large checkerboard exchanges done in the last few years were done through the congressional mechanism. It is disingenuous to say that the exchange should be done in another fashion, when this other method has clearly not been successful.

Mr. Chairman, the exchange you have before you today would trade better than 35,000 of our acres, over 70 percent of the land which we own, to the Forest Service. From an ecological and recreational point of view, this 35,000 acres is clearly the most desirable part of the ranch, and I will refer you to the pictures being passed around and in your folder.

The part the Forest Service will get contains the ponderosa pine forest on the ranch, which is the largest one remaining in private hands in the State; one of the last untouched valleys for antelope adjacent to the existing Juniper Mesa Wilderness Area, and it is the high-elevation land providing better opportunities for public recreation in the hot summer months. It will importantly reduce the developable land base in the Verde River watershed by better than 20 square miles. The Verde is the last free-flowing year-around river in north central Arizona.

In return for the 35,000 we give to the Forest Service, we get 15,000 acres of lower-elevation land and then land around the communities of Williams, Flagstaff, Cottonwood, Clarkdale, Camp Verde, and Prescott. More than half of the land we get off the ranch is not for my family. Rather, it will be to reconvey to the municipal governments for airports, water plants, sewer facilities, recreation, parks, open spaces, or to children's summer camps that currently use these areas. All of these communities and summer camps have repeatedly stated their need for the exchange to be completed in the near future, not 7, 10 years from now.

We think that these pass-through conveyances are an excellent way for the Forest Service to acquire as much of my family's land as possible, while giving the public land that is of lesser ecological value because it is already occupied by airports, water treatment plants, and the like. All national forest land clearly has value, but it does not all have equal value. Again, the pictures tell the whole story. The forest is acquiring pristine forests and meadows in exchange for land around cities that is already heavily impacted.

I have spent an awful lot of time putting together a very broad coalition supporting this trade. We now have the support of every city in Arizona that is part of this trade, all of the local chambers of commerce, Game and Fish, many hunter and sportsmen group,

many influential environmental leaders. I don't say that this is a perfect trade, but it is absolutely the best trade that I can make.

More than 25 years ago, my father promised the Forest Service that he would give them an opportunity to do a land exchange before he developed the land on our ranch. This is that opportunity.

Thank you.

[The prepared statement of Mr. Ruskin follows:]

**Statement of Fred Ruskin, Yavapai Ranch Limited Partnership**

Chairman McInnis and Members of the Subcommittee,

My name is Fred Ruskin and my family owns the Yavapai Ranch. Ours is a family owned business, which I have personally run since my dad died in 1981. We don't own other investments, other businesses, a Keogh plan, lots of stocks just this ranch.

As you can see from the "existing land ownership" map attached at the end of my testimony, the Yavapai Ranch contains approximately 50,000 acres of our private land, intermingled with 50,000 acres of the Prescott National Forest in a "checkerboard" ownership pattern. All the white squares inside the heavy black line on the map is our land, whereas the green land belongs to the Forest Service. The 6 sections you see in yellow are owned by outside interests. The second map shows proposed land ownership after the trade. The three white inclusions are already developed parcels, one of which I live on.

As I said, the Yavapai Ranch lands represent my family's only financial asset. It has been obvious for some time that it was not feasible to tie up this increasingly valuable piece of land just to run cattle on it. The recent severe drought in Arizona have made the cattle business even less attractive, while the growth of the surrounding area has made the ranch even more desirable for development. We now have land on two sides of the ranch being subdivided, and what will be the largest development in Northern Arizona is planned for the third side.

We have been discussing an exchange with the Forest Service for a long time. I have been working on this exchange for six years, and working virtually full time on it for the last three years.

I am here today to seek your assistance with our land exchange, because the Forest Service has indicated to us, and to Congressmen Hayworth and Stump, that it will take 7-8 years..., I repeat, 7-8 years... to finish an exchange by administrative means. That is probably optimistic; it has been taking the Forest Service almost that long to do a fifty acre exchanges in Arizona—this is a fifty-five thousand acre exchange. My family simply cannot continue to commit time and resources to a process that might not ever happen. And virtually all of the large checkerboard or intermingled land exchanges that have been done by the Forest Service in the past have been legislated by Congress even for such large landowners as Plum Creek Timber, Burlington Northern, Big Sky Lumber, Weyerhaeuser, and Potlach. So for these reasons we need your help.

Mr. Chairman, in the exchange that is before you today in H.R. 5513, we will trade 35,000 acres, or almost 70% of the land we own, to the Forest Service. From an ecological and recreational standpoint, that 35,000 acres is the most desirable part of the ranch because:

- it contains all the ponderosa pine forest on the ranch which is the largest ponderosa pine forest still remaining in private ownership in Arizona;
- it has one of the last untouched valleys in our area providing quality antelope range, which the Arizona Department of Game and Fish strongly advocates for public ownership;
- It is located immediately adjacent to the existing Juniper Mesa Wilderness Area, which was established by Congress in 1984;
- It lies at higher elevation, and therefore, provides better opportunities for public recreation in the hot summer months; and
- it will reduce the developable land base in the Verde River watershed by roughly 25,000 acres, which would be a major protection for this most important, free flowing river.

In return for the 35,000 acres we will convey to the Forest Service, we will receive 15,300 acres of lower elevation lands near our ranch headquarters and outlying buildings, plus approximately 5,900 acres in or near the communities of Williams, Flagstaff, Cottonwood, Clarkdale, Camp Verde and Prescott.

More than half of the acreage we receive in those communities will not be retained by us. Rather, these areas will instead be re-conveyed, either to municipal

governments for airport, water, and sewer facilities, recreation, park, open space or other public uses, or to the children's summer camps that currently use these areas. All of these communities and summer camps have repeatedly stated their need for the exchange to be completed in the near future not in 7-8 years.

Both we and the Forest Service concur that the so-called "pass-through" conveyances of H.R. 5513 are an excellent way for the Forest Service to acquire as much of our family's land as possible in trade for Forest Service land that is of lesser value to the general public because it is already occupied by airports, water treatment plants, summer camps and the like. All National Forest land has value to the public, but it does not all have equal value. This is for the public the most obviously beneficial trade imaginable: The Forest is acquiring pristine forest and meadows in exchange for land around cities that is already heavily impacted by use and/or location.

My final point, Mr. Chairman, is that this exchange has been, and will continue to be, a cooperative venture with the Forest Service. Before this exchange is completed, we will perform: 1) formal appraisals in full compliance with the U.S. Department of Justice standards that were just revised in 2000; 2) all required threatened and endangered species, cultural and historic resource, hazardous materials, and wetlands and floodplains analyses; and 3) traditional title reviews and analyses, which must be approved by the Forest Service. In addition, if the Forest Service determines that it cannot give us certain lands because they have values protected by Federal law that cannot be mitigated, such as T&E species, or uncommon cultural artifacts or sites, the lands in question will drop out of the exchange. So, there is no danger that the United States will lose lands with unique resources. And, as I have already mentioned, we, the Forest Service, and the Arizona Department of Fish and Game believe that the lands the Forest Service will acquire have much better environmental and recreational values than the lands the Forest Service will give up. Finally, as requested by several conservation organizations, the bill contains language in Section 7 to insure that the land acquired by the Forest Service will be permanently managed to maintain its existing natural character and values.

We have put together a very broad coalition supporting this trade. We now have the support of every city that is a part of the trade, all of the local chambers of commerce, The Arizona Department of Game and Fish, many hunter and sportsmen groups, and many influential environmental leaders in Northern Arizona.

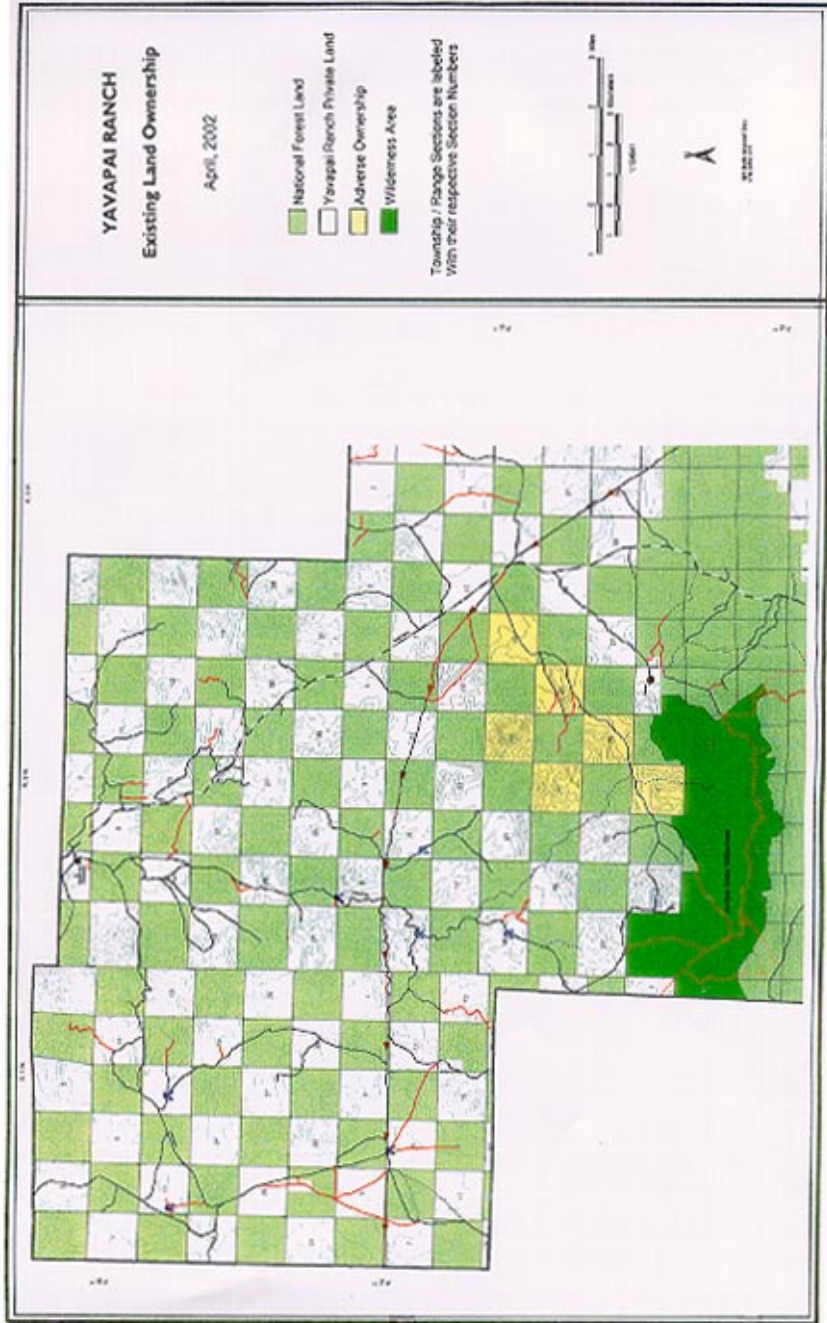
Mr. Chairman, thank you for scheduling this hearing on a matter that is of utmost importance to my family, and to the people and communities of Arizona. I wish that the economics of ranching were better than they are, that Arizona had not grown as it has, and that we could have afforded to maintain the status quo but that is not the reality of the situation today. So, I believe this exchange is in the best interest not only of my family but also of the land and people of Arizona.

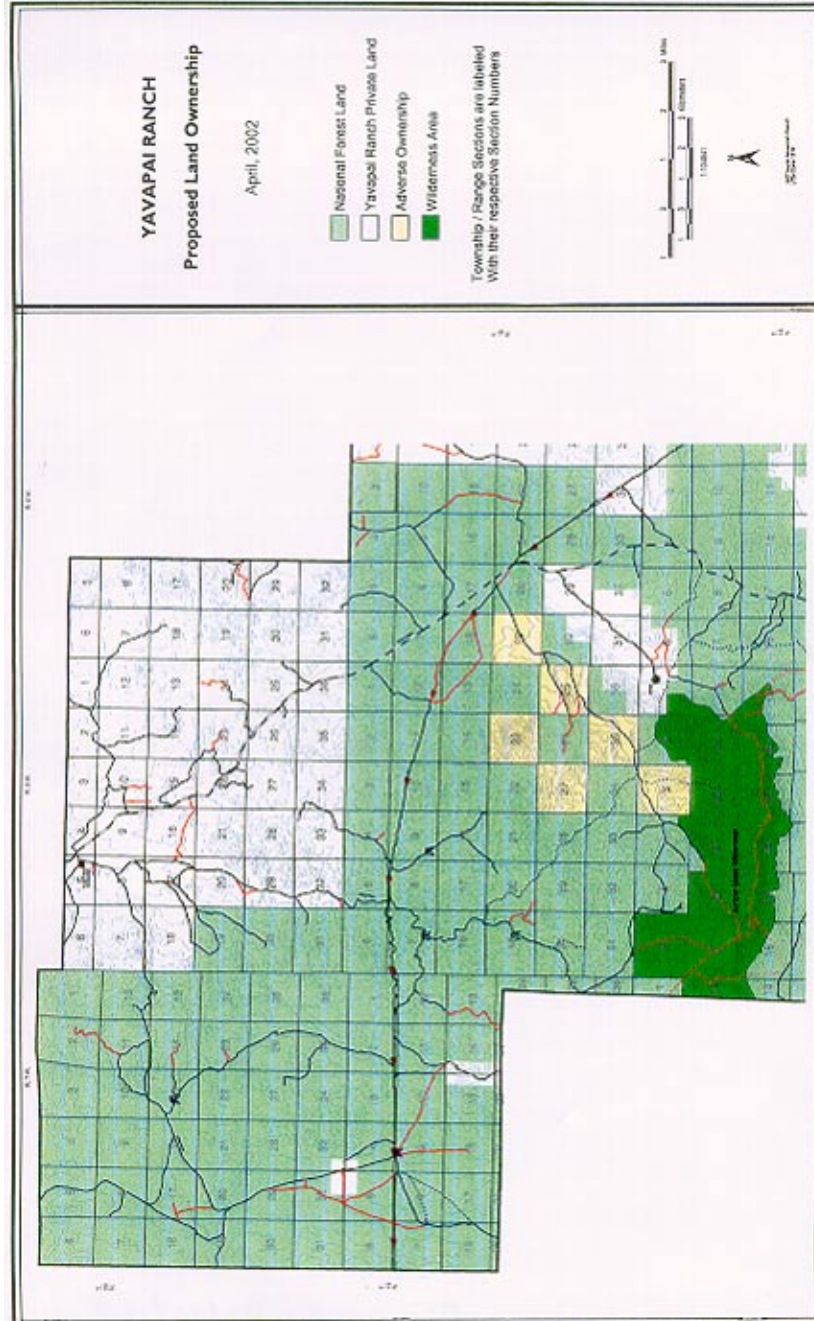
More than twenty five years ago my father promised the Forest Service that he would give them an opportunity to do a land exchange before he developed the land on our ranch. This is that opportunity.

That concludes my testimony. I will be happy to answer any questions the Subcommittee might have.

---

[Maps attached to Mr. Ruskin's statement follow; additional attachments have been retained in the Committee's official files.]





Mr. HAYWORTH. Mr. Ruskin, we thank you very much for that testimony.

Mr. Thompson, I have several questions concerning the zoning ordinances you mentioned in your testimony. I have right here a copy of the Planning and Zoning Ordinance of Camp Verde from the Yavapai County website. If you could, please, sir, I would like to have you read the highlighted portion at the bottom of the page. It comes from Section 109(d)(3) and subsection (A). You can read it. It is highlighted right down at the bottom of that page there, Section 109(d)(3), Part (A).

Mr. THOMPSON. Where it says "District Provisions?"

Mr. HAYWORTH. I believe that is correct.

Mr. THOMPSON. OK. (A), it says "Notwithstanding any other provision of this ordinance, including any density designation, no lot or parcel zoned RCU shall have a density less than two acres."

Mr. HAYWORTH. Thank you. I think that is important to get in the record because we need to move from there. As your testimony states, certain so-called market-based indicators suggest that the zoning and density might be changed in the future and would be much higher than that, perhaps four to six units per acre.

Now, correct me if I am wrong, but in the testimony you have presented for the record, your market-based indicators suggest that the zoning in Camp Verde will be changed by the town council to be 8 to 12 times more than under current zoning, and 12 to 18 times higher in Cottonwood-Clarkdale. So it seems you are assuming that both town councils will engage in a massive up-zoning of the lands after they have privatized.

I guess there are several questions innate in this. No. 1, why would the towns do that? How can you predict what any town government is likely to do in the future? And as you ponder that, allow me to read from the Uniform Appraisals Standards for Federal Land Acquisitions, which are the appraisal standards required for all Forest Service land transactions and which were recently updated by the Department of Justice in December of 2000.

Let me quote for you: "Under no circumstances can a property be valued as if it were already zoned for a higher use. The property must be valued only in light of the probability of obtaining a rezoning," end of quote.

So the question at this juncture is have you consulted with the towns of Camp Verde and Clarkdale as to whether they might change the zoning in the future?

Mr. THOMPSON. I assume that we have, but I don't know that for sure.

Mr. HAYWORTH. So to the best of your knowledge, you don't know?

Mr. THOMPSON. That is true.

Mr. HAYWORTH. But there is an assumption. The Chair would ask if you can review written correspondence and get back to us. I think that is important.

Have they given you any indication that they might up-zone the lands in question?

Mr. THOMPSON. I don't know that for sure.

Mr. HAYWORTH. OK.

Mr. THOMPSON. We can get back to you with a definite answer to the question.

Mr. HAYWORTH. You may be familiar with the Growing Smarter Initiative which changed the Arizona zoning law in 1998 and 2000 and made it much more difficult to do these up-zonings. Are you familiar with that?

Mr. THOMPSON. Generally.

Mr. HAYWORTH. Well, I can tell you those of us in representative jobs hear a lot about it. Under that initiative, if an up-zoning of land is to occur after the year 2000, the local government must not only change the zoning, but must first change the town's general plan to allow the up-zoning, or the town must approve the up-zoning by a two-thirds vote or super-majority.

Is there anything that gives you an indication that the towns of Camp Verde and Clarkdale are willing to do that?

Mr. THOMPSON. Well, Mr. Chairman, the administration is not opposed to the concept of these controls and declarations. It is simply the fact that those declarations have the effect of devaluing the Federal land. So it is not the declarations that are of concern.

Mr. HAYWORTH. Well, as we go through the records and take a look at the safeguards—and I understand the dynamism of federalism, if you will, and I can understand the viewpoint from the administration. But what we do in this role as constitutional officers is try to reconcile the interests of the Federal Government with the people of the State with whom we are dealing.

As I understand it, the town of Camp Verde—the town council says they have agreed with the Yavapai Ranch to down-zone about one-third of the land it will acquire in the exchange to an open-space category. So based on the letter I have received from Camp Verde, it sounds like they are contemplating a down-zoning, not going in the other direction.

Let me ask Mr. Gioia if he would support a major up-zoning in Camp Verde as a city council member.

Mr. GIOIA. As is likely evident by my appearance here today, I personally would not. However, the consequences of the political turmoil that have been caused by this trade—there have been recalls, swings in the balance of majority/minority repeatedly in the past few years since the introduction of this trade. And I am confident that given the political atmosphere of the week, a large-scale change in densities on that land is attainable, depending on the majority hearing that issue at that time.

Mr. HAYWORTH. And, Mr. Gioia, as you know, being an elected official, although you come here in a private capacity, it is impossible with any certainty to predict the outcome of city council votes or going to initiatives. That is the reason we have elections. That is why the first Tuesday following the first Monday, all of our names will appear on a ballot, and with no certainty can we predict that we will return.

My point is that it seems that we are getting some very mixed signals, to say the least, from different folks in different roles here and I wanted to bring that up as part of the testimony today.

The Chair thanks the indulgence of other Members. Are there any questions for the panel?

The gentleman from Washington State.

Mr. INSLEE. Thank you.

My first question is the meaning of the word "Yavapai." Does it have a meaning, or does anybody know?

Mr. Ruskin?

Mr. RUSKIN. In the Indian languages of northern Arizona, "pai" means "people." So we have many people, the Havasupai, the people of the Havasu. "Yava" was their word for the area north and east of where I am. The county is named Yavapai and our ranch, one of the traditional ranches in Yavapai County, has the name. It also appears in the name of two of our Yavapai county Indian tribes, the Yavapais of Prescott and the Yavapai Apaches of Camp Verde, sir.

Mr. INSLEE. Great. Now, on more prosaic topics, I am sorry my questions may express a lack of sophistication on this issue. So I apologize, but I am trying to make sure I understand it.

As I understand it, some local government agency has imposed some land use restrictions that may or may not affect the Federal lands subject to the transfer. Is that right, Mr. Thompson, generally?

Mr. THOMPSON. Yes. It is our view that the declarations basically, if imposed on the value of the Federal property before the exchange, would have the effect of devaluing the Federal property.

Mr. INSLEE. Right, and which—

Mr. THOMPSON. And it is our position that imposing those would, in essence, ask the American public to absorb that market value effect on those conditions.

Mr. INSLEE. And which agency, what local agency has imposed this?

Mr. THOMPSON. It is an agreement between the ranch and the Salt River Project.

Mr. INSLEE. The what?

Mr. THOMPSON. Salt River.

Mr. INSLEE. Salt River. Is that an irrigation district, or what is that?

Mr. THOMPSON. A water control organization.

Mr. INSLEE. It is a water control organization. Does that water control organization have the right under their charter to impose those restrictions on that property now held by the Federal Government?

Mr. THOMPSON. As I understand, the declaration is between the two. The Forest Service, the Department of Agriculture, was not involved in those discussions.

Mr. INSLEE. What I am trying to figure out is how can this agency impose a legal restriction on the use of Federal property without the permission of the owner of the property or the power under the local legislation to simply impose a restriction. Can someone explain that to me?

Mr. THOMPSON. Well, it doesn't impose it on the Federal property as it is. It would be ultimately when it became private property.

Mr. INSLEE. I see, OK, so it is a covenant with the prospective purchaser of the property. Is that correct, Mr. Ruskin? Do I have that right?

Mr. RUSKIN. Sir, the Salt River Project is a State agency, a water district of the State of Arizona. They are the guardians, in effect,



or the enforcers of the agreement. As I understand the legislation, sir, we are required to sign this agreement with the Salt River Project representing the State, which limits how much water can be used on the property.

Mr. INSLEE. Would the Federal Government be subject to that same requirement as the owner of the property?

Let me give you an example. If the Federal Government wanted to build a camp there and put in ten residences per acre, which would be more than this restriction, whatever number that is, could the Salt River irrigation project stop them from doing that without Federal consent?

Mr. RUSKIN. Sir, I am, as you know, a rancher, not an attorney, but my impression is that the Federal Government may give away land subject to any number of encumbrances. They could retain the mineral rights. In this case, they are requiring that all of the water use not be transferred which they now hold. So they are not bound by them now, but they certainly can give the land away in stages or with encumbrances.

Mr. INSLEE. But right now—and we will ask other people this question, too, but right now, could the Salt River agency impose this restriction on the Federal land without the Federal Government's permission? Do you know?

Mr. RUSKIN. I do not, sir.

Mr. INSLEE. I think that is kind of a critical question, at least in my judgment, and the reason, it seems to me, at least in my view—and I am open to thoughts on this because I haven't thought through this—if a local government imposes a land use restriction on land that is going to be transferred, in my book, that should be part of the appraisal process because you need to be subject to whatever land use restrictions apply.

However, if the prospective purchaser, if you will, simply enters into an agreement, that is a much more difficult situation for me because then what Mr. Thompson says is the Federal Government is absorbing the diminution of value because of essentially a private agreement, if you will, between an agency and a private owner. That is a different issue.

So, Mr. Ruskin, can you tell me why did you make that covenant with the Salt River agency?

Mr. RUSKIN. Because we were told to do so by the legislation itself and by our individual congressional delegation. In my discussions with our congressional members from Arizona, other than Mr. Colby's office—his district comes nowhere near this area—virtually every other Congressman and Senator believed that for this land to be transferred, the Federal Government needed to impose limitations on growth in the Verde Valley and how much water could be used in order to protect the Verde River.

This was not something in any sense that I thought up, sir. We were told to do it, and the legislation says in no uncertain terms, before this transfer, you shall sign this covenant.

Mr. INSLEE. Thank you. I appreciate that. Thank you.

Mr. HAYWORTH. Mr. Gallegly?

Ms. McCollum?

Ms. MCCOLLUM. Mr. Chair, I am trying to figure a couple things out. One is on your hand-outs—it is not really numbered; it is to

the council member. It is the town of Camp Verde. It is on here. I can't give you a page. I am sorry. Anyway, you have in here "The Forest Service must give full consideration that the exchange," and it goes on and on. And then you go on to say, "This increases the urban/forest interface and will exacerbate management problems."

So my question to the Forest Service is, are we, by going forward with this land exchange, creating more urban/forest interface, to your knowledge? Or if you don't have the information, could you get back to the Committee?

Mr. THOMPSON. What are you reading from there? I am sorry.

Ms. MCCOLLUM. I am reading from a letter to Senator John McCain, dated July 23, from the town of Camp Verde, on the second page, second from the bottom paragraph, second to the last sentence, and I am quoting the letter: "This increases urban/forest interface and will exacerbate management problems."

Mr. THOMPSON. I don't have the exact parameter of interface that would be created or not created. Let me just say that from the standpoint that we have 86 parcels of private land that would be consolidated and there would be 3 parcels that would remain after the exchange, in our view, that land exchange is certainly in the public's interest to reduce the number of interspersed parcels. So the urban interface—

Ms. MCCOLLUM. Reclaiming my time, Mr. Chair, the reason I bring this up is I have been listening to the gentlemen from the West loud and clear and my concern and what I would like more information on when we are doing these exchanges is exactly to this point. I don't want to do anything that increases urban/forest interface exchanges because we have enough problems now with the budget that we have going on.

Mr. Chair, my next question—and I don't know if the Forest Service can answer this or not—is the water issues. Is the land that the Forest Service is exchanging out, is that where the primary recharge of the water occurs? Are you giving up recharge areas for water?

Mr. THOMPSON. That area that is being exchanged is the checkerboard area, so it is every other section. I think our sections are all the even sections and the private sections are the odd sections. So it is all the same area where the major part of the exchange is occurring.

Ms. MCCOLLUM. I asked a question. Do you know if the primary exchange is where the water recharge takes place?

Mr. THOMPSON. My understanding is, yes, that is the case. I mean, it is a very large area.

Ms. MCCOLLUM. So we are exchanging—I don't know if you are answering my question or not. I don't think you can.

To the council member and to both gentlemen who are very familiar with the area, I understand that there is a drought and from a ranching perspective the Federal Government has limited the amount of water that you can use.

Can you tell from an urban responsibility as a council member your responsibility and the area's responsibility in making sure there is enough potable water for the residents that are currently there?

Mr. GIOIA. As my responsibility in the area—and I have taken that to great length in many intergovernmental groups and worked with USGS—there is not only a drought, but a depletion. We are living in a desert. It happens to be an emerald green oasis in the desert, but that has largely to do with surface water.

The question of Salt River Project having any dictation over the area of the exchange in the Camp Verde and Clarkdale area—the Department of Water Resources was given a map of the holocene alluvium. That is where the adjudication claim, or what SRP, Salt River Project, calls sub-flow—it is the water that seeps into the sand and gravel from the river.

They are claiming that water is part of surface water rights. That area is outside of these trade parcels. The trade parcel questions are about groundwater. SRP does not lay claim, as I understand from the map, and I am on the adjudication Subcommittee for the Verde Valley, legal Subcommittee for the Verde Valley.

As I understand it, dictation by SRP of lands that are not even in question for adjudication is basically a farce. It is a facade, and I thank those involved for making an attempt to deal with our grave problem of a lack of water supply in the Verde Valley. However, this particular attempt, these covenants, allow any water company created for or supplying to that area to circumvent these covenants. They dissolve.

It allows the proponent and the SRP to, upon mutual agreement, dissolve these covenants. There are several ways that these covenants can just disappear. So although I agree we need certain measures to protect the minimal water sources that we have, SRP being involved in writing these covenants I don't feel is of any great strength to our efforts to protect our water source, our very meager water source.

Mr. RUSKIN. May I respond?

Ms. MCCOLLUM. Well, that is up to the Chair.

Mr. HAYWORTH. Oh, certainly, please.

Mr. RUSKIN. I would not in any way pass myself off as a water expert. Clearly, the knowledgeable people on the scene in the Forest Service and in SRP—if you like them or not, they are the State water district—believe that this trade as it is constituted is an enormous saving of water because it severely reduces the amount of land for development on the ranch, which as it stands is one of the major contributors to the Verde River. It is the watershed where the rainfall flows off and replenishes the water supply that becomes the Verde River.

So they believe that if you decrease the amount of land for development up above the head waters of the Verde, it would be a huge gain in water as long as the small amount of land in the Verde Valley itself is not allowed to use a large amount of water, and this is what they have done.

It is like so much else in this trade, ma'am, a compromise. You have heard from the Forest Service saying too strict development on this land and it hurts our value. You have heard Mr. Gioia say these are worthless; they are not nearly strong enough.

As a layman, all I can tell you is the Forest Service and the experts involved believe that the trade as it is constituted would be a savings in water.

Ms. MCCOLLUM. Mr. Chair, if I could, just a follow on that.

Mr. HAYWORTH. Sure, go ahead.

Ms. MCCOLLUM. So there are restrictions on the water use and if it goes into your use for ranching, it doesn't have the high-impact development. What is the guarantee to the municipalities, to the State, to the Federal Government that when the times comes that your family no longer wants to be involved in ranching that, in fact, that land not be platted, subdivided and put into a development? Is there a restriction on you being able to do that? Does it revert back? What happens?

Mr. RUSKIN. Well, we are talking about two different pieces of land, ma'am. On the ranch itself, if you will look at that second map I gave you, the land that we block up we certainly have the option to develop in future years.

Ms. MCCOLLUM. I agree with you.

Mr. RUSKIN. But it is only a little more than a quarter of our existing land. So three-quarters, and the higher-elevation three-quarters, the attractive three-quarters or two-thirds, whatever it is, goes to the Forest Service and is theirs permanently.

So, yes, we can develop what is left, but it is a much smaller piece. And, again, think of the numbers. We are giving the Forest Service 35,000 acres on the ranch. We get back 15,000, more or less. So there is a net change of about 20,000 acres, 20,000 acres less of private land above the head waters of the Verde. In the Verde Valley, we receive in the neighborhood of 3,000 acres, and on that 3,000 acres there are very strong limits on how much water can be used.

Ms. MCCOLLUM. Mr. Chair, coming from a State with a lot of water and you coming from a State with little water, water is important no matter where you live.

Mr. HAYWORTH. Well, that is certainly true.

Ms. MCCOLLUM. And I don't feel that I have enough information to understand how the hydrology of all of this works. But I do have a parliamentary question for you, Mr. Chair.

Is this packet of information from—is it Gioia? Am I saying your name right?

Mr. GIOIA. Gioia.

Ms. MCCOLLUM. Gioia. Excuse me, sir.

Mr. GIOIA. Thank you.

Ms. MCCOLLUM. Is this in for the record?

Mr. HAYWORTH. Oh, yes, I have included—everything he brought for testimony has been included in the record.

Ms. MCCOLLUM. So the statement in here that I referenced from the letter that was sent to Senator McCain is part of the record?

Mr. HAYWORTH. Yes, and we made new letters that he brought today, along with petition signatures, part of the record as well.

Ms. MCCOLLUM. And, Mr. Chair, I think it would be interesting for you and I to find out if we are, in fact, having the Forest Service go back and look to see if we are increasing the amount of urban interface.

Mr. HAYWORTH. To that point—and I thank the gentlelady for her question—it seems the conundrum is this: This is the typical checkerboard, we call it in the West, and under the proposed exchange the land holdings are consolidated and thus the exchange.

Living in Arizona and seeing the interest, if we take what is checkerboarded now, I think under the definition of interface you have more of the situation there now. But suppose we don't have any land exchange and things are free to develop as they—a family turns to development after not getting the exchange done.

It seems to me you are going to have much greater interface either with maintaining the current situation or seeing these lands subdivided into private ownership because of the challenge we are dealing with right there. Indeed, Arizona has adopted Growing Smarter initiatives to try and work with this.

Part and parcel of what happens so often in the West, because so much of our land is under Federal control—when we try to work these exchanges, we are seeing more and more exchanges coming for environmental and recreational concerns to get land in the hands of the Federal Government, to consolidate and, in fact, eliminate the notion of interface.

But that is my perception of the situation and, of course, before we dismiss the panel I know we have a couple of more questions. We will be happy to have a round two. And, of course, all those who testify to us have 10 days to get back to us in writing if we have some specific concerns for them where they can follow up on that.

Let me offer a question. I know my friend from Washington State may have questions and I am not sure if the gentleman from California does.

Mr. Ruskin, what assurances do you have that you will pass the lands that you have acquired in Williams and Flagstaff through to the communities for their airport expansion and other municipal uses? What would happen if you tried to keep them for yourself?

Mr. RUSKIN. Well, if you look at how the legislation is written, sir, on these lands that are to be passed through, if we do not have fixed, firm agreements before the legislation closes with the parties that would acquire them, the current lease-holders, we have the right to ask the Forest Service to delete them from the trade. There is no way in the world my family wishes to be a landlord for sewage plants, water treatment plants, kids' summer camps and the like.

Clearly, they are currently zoned for their current use, water plants, and in private hands they would be absolutely useless, which is why under no circumstances would we indeed accept them.

Mr. HAYWORTH. Thank you, Mr. Ruskin.

Mr. Gioia, the Chair would note that we have had a chance to meet informally and we thank you for coming into the formal setting to offer your testimony. I want to compliment you on what are obviously sincere and heartfelt beliefs about future land and water use in your valley. You have spent a great deal of time both as an elected official and a volunteer with many organizations working on matters of great importance to your future and the future of your community.

We may disagree on some statements here about the way you perceive the bill. I do know this: Whatever the future holds, and should H.R. 5513 become law, I fully expect that you will remain

a watchdog on land and water issues in the Verde Valley, and for that you have my respect and gratitude.

Mr. GIOIA. Thank you very much, Mr. Chairman.

Mr. HAYWORTH. Thank you, Mr. Gioia.

The gentleman from Washington State had a couple of questions.

Mr. INSLEE. Thank you.

Mr. Gioia, is the Federal land that is subject to the transfer in a city jurisdiction or a county, or who would typically be doing land use decisionmaking in there if it wasn't private property?

Mr. GIOIA. The Camp Verde portion borders on the Camp Verde town limits and it is in the county. The Clarkdale is written as Cottonwood portion. However, Clarkdale as extended its borders to annex this particular land. The last Clarkdale council was vehemently opposed to this and as a matter of restricting growth on that land, they annexed that land.

Mr. INSLEE. So if this land was now private property, in part the county could be imposing land use restrictions, one of the cities, then?

Mr. GIOIA. Correct. The Camp Verde portion is only in small part within the jurisdiction of Camp Verde.

Mr. INSLEE. So if the Federal land was in private hands today, what restrictions would there be by county or city ordinance? Can you tell us? Can you predict, can you suggest what would happen?

I guess the real question is would the restrictions imposed by this private covenant be reflected in a public restriction when and if they are in private hands?

Mr. GIOIA. I actually also work for the county as co-chairman of the Yavapai County Water Advisory Board, and we deliberate and investigate suggestions for the county board of supervisors. We have a good ear in County Supervisor Chip Davis, who represents the Verde Valley, and I am afraid often the balance is two to one.

So questions of development in that area would again be unpredictable. Restrictions on water—the Yavapai Water Advisory Board has been working on a regional water management plan and we are still 2 1/2, 3 years out with our scientific information.

Mr. INSLEE. Mr. Ruskin, the dilemma, it seems to me, is you sign a covenant that reduces the value of the Federal property, but the covenant is something that is only temporary that the parties can extinguish at a later date. And I am not sure about the public interest in doing it. I obviously don't know the circumstances of it.

Have you considered some type of agreement with the county and/or city, once it goes into private ownership, to agree to a public restriction? You could then tell the Federal Government that immediately when it goes into private hands it will be subject to a public restriction and therefore should be valued accordingly. Is there any problem doing that if you have some of us demonstrating concern about reducing the value because of this private covenant?

Mr. RUSKIN. Sir, to my knowledge, the water restrictions proposed were based on and calculated on the existing county and city zoning, which is in Camp Verde and Yavapai County a house per two acres, as the Chairman had said, and in Clarkdale a house per three acres. The water figures are predicated on those. So the idea was clearly we are never going to go for higher zoning. That is what it is. That is all the water there is.

Yes, at their pleasure, the Salt River Project can change it, but any change they make is not going to be for greater water use on these parcels. Their job is to preserve water flowing downstream into the Salt River Valley.

So, yes, we would be glad to in any way further strengthen those. Such is the power and vigilance of the Salt River Project in Arizona, and I don't think any rational rancher or businessman in Arizona would ever make plans on changing these. That is why the Salt River Project was left the enforcer of the agreement by, I think, the congressional delegation.

Mr. INSLEE. Thank you.

Mr. HAYWORTH. I thank the gentleman from Washington State.

I would like to thank the witnesses for their insights and thank the Members for their questions. The Members may have additional questions for the witnesses, and we would ask that you please respond to those in writing. The hearing record will be held open for 10 days for these responses.

So, thanks to all three of you gentlemen, especially those who made the hardship duty of coming back to Washington from beautiful Arizona.

Tony, Fred, thank you. Tom, as always, from the Forest Service, we thank you for your comments as well. H.R. 5102 and H.R. 5185

Mr. HAYWORTH. Now, it is my honor to introduce witnesses for H.R. 5102 and 5185. On panel two, we have got our good friend from California who joins us on the dais here, Congressman Elton Gallegly, of the 23rd District of that great State. We hope that Congressman Gibbons might be able to join us. We know that we have his statement for the record. He is from the 2nd District of Nevada.

Mr. Larry Hamilton, the Director of Fire and Aviation of the Bureau of Land Management; the aforementioned Mr. Thompson from the National Forest System, who is accompanied by Jerry Williams, Director of Fire and Aviation of the U.S. Forest Service; and Mr. Roy Resavage, the President of Helicopter Association International.

Roy, I hope I didn't totally butcher your name, but the Chair always is happy to be corrected at the important junctures in the record.

With that in mind, let me first turn to the gentleman from California, Mr. Gallegly, for any statement he might wish to make.

**STATEMENT OF THE HON. ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. GALLEGLY. Thank you very much, Mr. Chairman. I really appreciate the opportunity to discuss my legislation, the Wildfire Response Enhancement Act, which is so important to the health and safety of fire-risk communities.

Mr. Chairman, in 1993, as wildfires ravaged across my district, bureaucratic foul-ups kept Air National Guard firefighting tankers on the tarmac for crucial hours as the fires advanced on several communities. Even though Air Guard personnel were ready to go, U.S. Forest Service officials refused to give the go-ahead because of the arcane Depression-era Economy Act.

As you know, the Act restricts the use of Federal personnel and resources until all commercially available resources have been deployed. When time matters and lives and property are endangered, this is totally unacceptable. That is why I originally introduced the legislation in the 103rd Congress to exempt firefighting efforts from the Economy Act.

In response to this year's record wildfires and two tragic commercial C-130 tanker crashes, I have reintroduced this legislation. Under my bill, the Secretaries of Interior and Agriculture may call on firefighting resources if they make a determination that those resources are necessary to properly respond to a wildfire in a timely and effective manner.

My legislation's intent is not to harm the public safety commercial aircraft industry, but rather to encourage the departments to respond quickly to wildfires using the most available and advanced equipment, even though all commercial aircraft may not have been deployed.

Mr. Chairman, the time for changing the statute is very clear. In emergency situations, we can no longer rely solely on the aging fleet of commercially owned public safety aircraft, especially when more advanced planes and resources are more readily available.

As stated by a recent L.A. Times article entitled "The Test of Fire for Aging Aircraft," the commercially operated planes are unlike anything else for the public safety. One Forest Service employee was quoted saying the commercial fleet was a flying museum. The article also stated that some planes have gun turrets and cracked wood floors from World War II and the Korean service. Most importantly, the editor of Aviation Week magazine was quoted as saying the current system is broken, the time has come to throw out the statutes.

Mr. Chairman, I would ask that this article be made a part of the record.

Mr. HAYWORTH. Without objection, so ordered.

[The article has been retained in the Committee's official files.]

Mr. GALLEGLY. In addition, Mr. Chairman, I would like to add to the record a letter from Major General Paul Monroe, Adjutant General of the California National Guard, supporting the legislation.

Mr. HAYWORTH. Without objection.

[The letter has been retained in the Committee's official files.]

Mr. GALLEGLY. Mr. Chairman, when it comes to saving people's lives and property, we can't afford to bench our best and most available firefighting resources. I urge that this bill be given an opportunity to be considered before the Resources Committee in the near future.

Again, I thank you, Mr. Chairman. This is a very, very important issue, and I yield back.

[The prepared statement of Mr. Gallegly follows:]

**Statement of Hon. Elton Gallegly, a Representative in Congress from the State of California**

Thank you Mr. Chairman for this opportunity to discuss my legislation, the Wild-fire Response Enhancement Act, which is so important to the health and safety of fire-risk communities.



Mr. Chairman, in 1993 as wildfires ravaged across my district, bureaucratic foul-ups kept Air National Guard firefighting tankers on the tarmac for crucial hours as the fires advanced on several communities. Even though Air Guard personnel were ready to go, U.S. Forest Service officials refused to give the go-ahead because of the arcane Depression-era Economy Act. As you know, the Act restricts the activation of federal personnel and resources until all commercially available resources have been deployed. When time matters and lives and property are endangered, this is unacceptable.

That is why I originally introduced legislation in the 103rd Congress to exempt firefighting efforts from the Economy Act. In response to this year's record wildfires and two tragic commercial C-130 tanker crashes, I have reintroduced this legislation. Under my bill, the Secretaries of Interior and Agriculture may call on firefighting resources if they make a determination that those resources are necessary to properly respond to a wildfire in a timely and effective manner. My legislation's intent is not to harm the public safety commercial aircraft industry, but rather to encourage the departments to respond quickly to wildfires using the most available and advanced equipment, even though all commercial aircraft are not deployed.

Mr. Chairman, the time for changing this statute is clear. In emergency situations, we can no longer rely solely on the aging fleet of commercially owned public safety aircraft, especially when more advanced planes and resources are more readily available. As stated by a recent LA Times article titled "Test of Fire for Aging Aircraft," the commercially operated planes are unlike anything else used for public safety. One Forest Service employee was quoted as saying the commercial fleet was a "Flying Museum." The article also stated that some planes still have gun turrets and cracked wood flooring from World War II and Korean service. Most importantly, the editor of Aviation Week Magazine was quoted as saying "The current system is broken . . . the time has come to throw out the statutes." Mr. Chairman, I would ask that this article be allowed into the record.

In addition, I would also like to add into the record a letter from Major General Paul Monroe, Adjutant General of the California National Guard, supporting my legislation.

Mr. Chairman, when it comes to saving people's lives and property, we can not afford to bench our best and most available firefighting resources. I urge that this bill be given an opportunity to be considered before the Resources Committee in the near future. Again, I thank the Chairman.

---

Mr. HAYWORTH. We thank the gentleman from California.

We would turn now to those who join us dealing with some scheduling situations. We understand that Mr. Hamilton, Director of Fire and Aviation from the Bureau of Land Management, would like to proceed.

Mr. Hamilton, we are happy to hear your testimony.

**STATEMENT OF LARRY HAMILTON, DIRECTOR OF FIRE AND AVIATION, BUREAU OF LAND MANAGEMENT, ACCOMPANIED BY LYNN FINDLEY, MANAGER, NATIONAL AVIATION OFFICE, BUREAU OF LAND MANAGEMENT**

Mr. HAMILTON. Good afternoon, Chairman Hayworth and members of the Committee. I am Larry Hamilton, Director of Fire and Aviation for the Bureau of Land Management. With me today is Lynn Findley, who is Manager of the BLM's National Aviation Office, and we appreciate the opportunity to meet with you today to discuss H.R. 5102 and H.R. 5185, legislation addressing our acquisition of important aircraft goods and services needed to fight wildland fires. I want to thank the Committee for its support of the Department's ongoing efforts to continuously improve our wildland firefighting capabilities.

As the members of the Committee know, the 2002 wildland fire season has been long and challenging. It began earlier than usual in the Southwest and southern Rockies, months ahead of schedule. To date, over 6.67 million acres have burned, the result of numer-

ous conditions, including record severe drought in many parts of the country.

Despite demanding, dangerous conditions, I am pleased to report that our firefighters have been very successful this season. With funding from Congress which the Department of the Interior agencies used to hire and train additional firefighters, purchase additional engines, and contract for additional helicopters, our firefighters have been more effective than ever, controlling over 99 percent of all fires on initial attack.

Aviation support is among the most heavily relied upon support we receive in our efforts to fight wildfires, especially during this catastrophic fire season. In many instances, aircraft assistance can and does make a critical difference in controlling a fire upon initial attack. Aircraft are essential in protecting homes and other valuable resources because the water and fire retardant they release reduce the intensity of fire, enabling ground crews to build fire lines when it would otherwise be too hot and dangerous to do so.

Since 2000, increasing demands for specialized aviation resources have resulted in shortages in some categories, particularly large air tankers and helicopters for fire suppression missions, including direct attack, firefighter delivery to remote areas, and aerial resupply.

In 2002, three crashes within the federally contracted aircraft industry involving aircraft engaged in wildland firefighting work, one in California and two in Colorado, caused even further shortages in aerial resources by grounding the types of aircraft involved while investigations proceeded to determine whether the causes of those crashes were attributable to the aircraft.

The availability of National Guard and Reserve aircraft fitted with the Modular Airborne Fire Fighting System filled some of the void created by those losses and were of inestimable value in mitigating the shortages. In the wake of these terrible tragedies, a joint blue ribbon panel has been established by the USDA Forest Service and the Department of the Interior to review, among other things, safety management in our aviation program. The panel is expected to release its report by mid-November 2002.

The contributions of civilian contractors of both air tankers and helicopters are significant. Private industry provides the core of our airborne capability and has always been up to the task. However, the air tanker industry will be seriously challenged to continue uninterrupted the level of service needed by the Department.

Newer-generation aircraft are not readily available and will not be for some time., and the continued service of some existing air tankers is in question. While the innovativeness of these operators will eventually provide solutions, at least in the immediate future there will continue to be a need for additional capacity, such as that which might be provided by the National Guard and Reserve MAFFS aircraft, helicopters, crews, and support personnel.

H.R. 5102 provides an exemption to Section 1535(a)(4) of Title 31 of the United States Code, which states that prior to placing an order for goods or services within the same or another Federal Agency, the head of the Federal agency must decide that the ordered goods or services cannot be provided by contract as conveniently or cheaply as a commercial enterprise.

We appreciate the sentiment underlying H.R. 5102 and similar type changes that would be made by H.R. 5185, which is to facilitate the Departments of the Interior and Agriculture's access to the full range of available firefighting resources, including those in the public sector. However, we believe that sufficient flexibility currently exists under the Economy Act to achieve the objectives of this legislation, and therefore we cannot support these bills.

We will continue to examine ways to ensure that we have timely access to additional private and public sector resources where current contracts or inter-service support providers are already operating at full capacity or the ability of existing contractors or inter-service support providers to respond in a life-threatening or significant loss of property situation is in question.

We want to thank the Committee for its ongoing support of our wildland firefighting efforts. Private industry has been and will continue to be a valuable part of our efforts to fight wildland fire. However, in certain emergency situations we have augmented this capacity with cost-effective public resources.

I would be glad to answer any questions that the Committee may have for me.

[The prepared statement of Mr. Hamilton follows:]

**Statement of Larry Hamilton, Director of Fire and Aviation, Bureau of Land Management, U.S. Department of the Interior**

Good Morning Chairman McNinnis and Members of the Committee. I am Larry Hamilton, Director of Fire and Aviation for the Bureau of Land Management. With me today is Lynn Findley, Manager of the BLM's National Aviation Office. I appreciate the opportunity to meet with you today to discuss H.R. 5102 and H.R. 5185, legislation addressing our acquisition of important aircraft, goods and services needed to fight wildland fires. I want to thank the Committee for its support of the Department's ongoing efforts to continuously improve our wildland firefighting capabilities.

As members of the Committee know, the 2002 wildland fire season has been long and challenging. It began earlier than usual, in the Southwest and Southern Rockies, months ahead of schedule. To date, over 6.67 million acres have burned, the result of numerous conditions, including record, severe drought in many parts of the country.

Despite demanding, dangerous conditions, I am pleased to report that our firefighters have been very successful this season. With funding from Congress which the Department of the Interior agencies used to hire and train additional firefighters, and purchase additional engines and contract for additional helicopters, our firefighters have been more effective than ever, controlling over 99% of all fires on initial attack.

Aviation support is among the most heavily relied upon support we receive in our efforts to fight wildfires, especially during this catastrophic fire season. In many instances, aircraft assistance can and does make a critical difference in controlling a fire upon initial attack. Aircraft are essential in protecting homes and other valuable resources because the water and fire retardant they release reduce the intensity of fire, enabling ground crews to build fire lines when it would otherwise be too hot and dangerous to do so.

Since 2000, increasing demands for specialized aviation resources have resulted in shortages in some categories, particularly large airtankers and helicopters capable of fire suppression missions, including direct attack, firefighter delivery to remote areas and aerial resupply. In 2002, three crashes within the Federally contracted aircraft industry involving aircraft engaged in wildland fire fighting work, one in California and two in Colorado, caused even further shortages in aerial resources by grounding the types of aircraft involved while investigations proceeded to determine whether the causes of those crashes were attributable to the aircraft. The availability of National Guard and Reserve aircraft fitted with Modular Airborne Fire Fighting System (MAFFS) filled some of the void created by these losses and were of inestimable value in mitigating the shortages. In the wake of these terrible tragedies, a joint Blue Ribbon Panel has been established by the USDA Forest

Service and the Department of the Interior, to review, among other things, safety management in our aviation program. The panel is expected to release its report by mid-November, 2002.

The contributions of civilian contractors of both airtankers and helicopters are significant. Private industry provides the core of our airborne capability and has always been up to the task. However, the airtanker industry will be seriously challenged to continue uninterrupted the level of service needed by the Department. Newer generation aircraft are not readily available and will not be for some time, and the continued service of some existing air tankers is in question. While the innovativeness of these operators will eventually provide solutions, at least in the immediate future, there will continue to be a need for additional capacity, such as that which might be provided by the National Guard and Reserve MAFFS aircraft, helicopters, crews, and support personnel.

H.R. 5102 provides an exemption to Section 1535 (a)(4) of Title 31 of the United States Codes which states that prior to placing an order for goods or services within the same or another Federal agency, the head of the Federal agency must decide that the ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise. We appreciate the sentiment underlying H.R. 5102, and similar type changes that would be made by H.R. 5185, which is to facilitate the Departments of Interior and Agriculture's access to the full range of available firefighting resources—including those in the public sector. However, we believe that sufficient flexibility currently exists under the Economy Act to achieve the objectives of this legislation and, therefore, we cannot support these bills. We will continue to examine ways to ensure that we have timely access to additional private and public sector resources where current contracts or inter-service support providers (i.e., public providers) are already operating at full capacity or the ability of existing contractors or inter-service support providers to respond in a life threatening or significant loss of property situation is in question.

We thank the Committee for its ongoing support of our wildland firefighting efforts. Private industry has been and will continue to be a valuable part of our efforts to fight wildland fire. However, in certain emergency situations, we have augmented this capacity with cost-effective public resources. As stated earlier, we will continue to examine ways to ensure that we have timely access to additional private and public sector resources needed to fight wildland fires. We appreciate the continued bipartisan support we have received from the Congress, and we look forward to working with you as we improve the processes used to support our firefighting efforts.

I will be happy to answer any questions the Committee may have for me.

---

Mr. HAYWORTH. Mr. Hamilton, we thank you for the testimony. The aforementioned Mr. Thompson, who joined us on the first panel, thanks for sticking around. We look forward to your testimony now.

**STATEMENT OF TOM THOMPSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY JERRY WILLIAMS, DIRECTOR OF FIRE AND AVIATION, NATIONAL FOREST SYSTEM, FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE ON H.R. 5102 AND H.R. 5185**

Mr. THOMPSON. Thank you again, Mr. Chairman, for this opportunity to appear before you today. I am Tom Thompson, Deputy Chief of the National Forest System. With me is Jerry Williams, who is the Director of Fire and Aviation Management for the Forest Service.

I would like to present the administration's views on H.R. 5102, the Wildfire Response Act of 2002, and 5185, which is the Wildfire Response Enhancement Act. Before discussing these bills, I would like to take a few moments to update you on the status of our aviation program.

As you are well aware, this has been an unusual fire season. Not only have we had and seen a dramatic increase in fire intensity

and loss of resources, but because of the loss of human life this has been an extremely tragic year for our aviation firefighting program.

The U.S. Department of Agriculture Forest Service and the Department of the Interior administer a challenging aviation program to support the national firefighting effort. We contract for 44 large air tankers, over 100 exclusive-use helicopters, and nearly 300 more "call when needed" helicopters. These aircraft are flown by highly professional pilots and form the backbone of our airborne resources and are more than adequate to meet our needs during a normal fire season.

However, the meaning of a "normal" fire season has changed with the conditions of our forests, and in both 2000 and 2002 the military provided a critical surge capacity which was needed. Occasionally, we may need to call upon these resources under time-sensitive conditions to meet urgent requirements.

Chief Dale Bosworth and Kathleen Clarke, Director of the BLM, decided that we needed to step back and get an objective outside view of our program. So they jointly commissioned a blue ribbon fact-finding panel to determine the adequacy of our current aviation program.

This fact-finding panel includes some of the best minds in the fire and aviation community. Included are a former Chairman of the National Transportation Safety Board, the State Forester of Texas, and the previous Director of the Transportation Safety Board of Canada. The panel is expected to issue its report by this November. This report is expected to identify strengths, weaknesses and fail points, and provide information in five areas: safety, operational effectiveness, costs, sustainability, and strategic guidance.

Using information from this comprehensive report, both agencies will be in a much better position to meet the complex short- and long-term challenges of our firefighting and aviation program. We will share the panel's findings and our proposed actions with you when they are available.

Let me move to H.R. 5102 and H.R. 5185 directly. As you are well aware, the 2002 fire season was one of the most devastating seasons in recent memory. Not only have we seen a dramatic increase in fire intensity and loss of resources, but because of the loss of human life it has been a tragic year.

I want to thank the Committee for its support of all of our ongoing efforts to continuously improve our wildland firefighting capabilities. I know that without the support that we have gotten, we would not have been able to control the fires that we were, and we controlled a large, large number. I think 99 percent of all the fires were controlled.

With regard to 5102, it would give the Secretaries of Agriculture and the Interior expedited authority to utilize military aircraft and attendant personnel to fight wildfires without first comparing costs of procuring the same services from a commercial enterprise, as currently required by the Economy Act.

H.R. 5185, legislation that is somewhat broader than 5102, would give us the option to use military resources without making the determination that commercial sources were unavailable.

We certainly appreciate the Committee's desire to ensure that the Department is vested with the flexibility needed to assess cost-effective, quality sources in a timely manner, including emergency situations. We believe, however, that there is sufficient flexibility currently under the Economy Act to achieve the objectives of this legislation, and for this reason cannot support the legislative changes proposed by these bills.

This concludes my statement. I would be happy to answer questions.

Mr. HAYWORTH. We thank you, Mr. Thompson.

The Chair would ask the next witness for forgiveness for addressing him in an informal fashion.

But, Roy, could you help me pronounce your last name?

Mr. RESAVAGE. Yes, Mr. Chairman. It is Roy Resavage. I am the President of Helicopter Association International.

Mr. HAYWORTH. Mr. Resavage, aka Roy, your testimony is welcome, as you are, in front of the Committee.

**STATEMENT OF ROY RESAVAGE, PRESIDENT, HELICOPTER  
ASSOCIATION INTERNATIONAL**

Mr. RESAVAGE. Thank you very much. Good morning, Mr. Chairman and Mr. Gallegly. I am honored to appear before you today and express the views of Helicopter Association International, HAI, concerning two bills, H.R. 5102 and H.R. 5185.

HAI is a not-for-profit professional trade association of over 1,400 member organizations in the United States and throughout the world. Member companies include operators of civil helicopters, manufacturers, and peripheral industry supporters. The majority of the members are small businessmen and women, and a substantial number are engaged in firefighting. HAI members safely operate more than 5,000 helicopters and approximately 2 million hours every year.

HAI takes exception with H.R. 5102's proposed authorization for the use of military aircraft and personnel of the armed forces to fight wildfires without first comparing the cost and convenience of procuring the same services from a commercial enterprise. H.R. 5185 expands the scope of these waivers by extending the same relaxations to any Federal agency.

While HAI recognizes language in the bills require congressional notice of the use of the exception to the Economy Act and the reasons for the use of this exception, HAI is concerned that the notice to Congress would be made after the fact and that the measure could facilitate the immediate call-up of military resources without any realistic oversight or control.

It is our contention that the Federal Government's aerial firefighting function is more adequately performed by a cost-effective, professional industry within the United States consisting of private sector companies. At present, an excellent working relationship exists between HAI members and other members of the firefighting industry with the U.S. Forest Service; the National Interagency Fire Center, NIFC; the Office of Aircraft Services, OAS; and the Bureau of Land Management, BLM.

Protecting lives and assets of U.S. citizens is of the utmost concern to HAI's firefighting members. However, any increase in mili-

tary or National Guard aerial firefighting assets, and directing their use as an initial response resulting from the passage of H.R. 5102 or H.R. 5185, would be in direct competition with private enterprise. Firefighting is not an inherently governmental function, nor is it a military function. Current Federal policy does not advocate competition between the Federal and the private sectors.

Tax-paying entities would be jeopardized by inappropriate use of the relaxations being contemplated. Existing law permits Federal goods and services to be used whenever, in the judgment of the Federal agency head, the resources cannot be provided as conveniently or cheaply by commercial contract. This legislation does not improve the existing law.

National Guard components are already used in an adjunct role during severe wildfire conditions. However, supplying routine military or National Guard wildland firefighting aerial resources is not appropriate. Wildland firefighters require an identifiable and predictable fleet of aerial firefighting aircraft that are not subject to higher priority tasking. One need only look at the events of September 11 to see that members of the National Guard may be called to duty elsewhere.

Aviators involved in wildland firefighting require specialized training and repetitive teaming with the entire firefighting community. Ad hoc participation in this high-risk environment by pilots inexperienced in firefighting is potentially dangerous and inefficient. The commercial industry performing this specialized function has done so for over 40 years.

It is U.S. Forest policy that military aircraft are only utilized when all reasonably available civilian aircraft are being employed, with the exception of the National Guard, who can be mobilized by Governors to respond to wildfires within the boundaries of their individual States.

The Federal agencies in the trenches are placed in a delicate position relative to this proposed legislation. They can't appear indifferent to the unsolicited attempts to aid them in their mission. However, we strongly believe that they would support the continuation of the policies that are already in place, and I believe you have already heard that today.

Current procedures provide the flexibility to respond appropriately to increasing wildland fire requirements as experienced this fire season. Congress and the public need to know that the system is not broken or encumbered by outdated laws. The current NIFC procedures already allow activation of U.S. Air Force and Army National Guard, including reserve C-130 aircraft.

It is a matter of record that clear guidelines exist for the deployment of Department of Defense components to assist in forest and grassland firefighting emergencies. Determining that military aviation is necessary is not a protracted, time-consuming process. Sufficient lead time exists under current procedures to determine whether resources are readily available and to mobilize commercial as well as military assets.

During this fire season, NIFC has indicated to HAI that more than sufficient civilian tankers were available during the Hayman fire in Colorado. Even with the exemption proposed under

H.R. 5102 and 5185, the military would not have automatically been called. NIFC currently has the tools and the statutory authority necessary to assign aerial assets to fight wildfires. Legislation is not required.

If an isolated incident occurred wherein no commercial assets were available and military assets were not called upon, HAI believes NIFC can administratively address this issue. Our citizens need to know that they are receiving effective firefighting services by professional firefighters who have consistently demonstrated their courage and commitment to keep them and their property safe from wildfires. They also need to know that the brave men and women in the armed services and the National Guard will be available and trained to defend us from all enemies of our country and not have that essential mission diluted by unnecessary tasking.

Thank you very much.

[The prepared statement of Mr. Resavage follows:]

**Statement of Roy Resavage, President, Helicopter Association International**

Good morning Mr. Chairman, and Members of the Forests and Forest Health Subcommittee. I am honored to appear before you today and express the view of the Helicopter Association International (HAI) concerning two bills, HR 5102, The Wildfire Response Act of 2002, and HR 5185, the Wildfire Response Enhancement Act. I ask that you accept my written testimony into the official record.

HAI is a not-for-profit, professional trade association of over 1400 member organizations in the United States and throughout the world. Member companies include operators of civil helicopters, manufacturers, and peripheral industry supporters. Many of the members are small businessmen and women and many of them are engaged in firefighting. HAI's members safely operate more than 5,000 helicopters approximately two million hours each year.

Mr. Chairman, I recognize your cosponsorship of HR 5102, introduced by your colleague, Mr. Hefley, a member of the full Committee. As you are aware, HR 5102 is an exception to the Economy Act requirement to allow activation of military resources for emergent situations such as wildland fires, thereby expediting the process by which the Secretary of the Interior and the Secretary of Agriculture may utilize military aircraft to fight wildfires. Helicopter Association International is concerned over authorization for the use of military aircraft and personnel of the Armed Forces to fight wildfires without first comparing the cost and convenience of procuring the same services from a commercial enterprise. While HAI recognizes language in the bill requiring Congressional notice of the use of the exception to the Economy Act and the reasons for the use of the exception, HAI is concerned that notice to Congress would be made after the fact and that the measure would facilitate the immediate call up of military resources at a higher cost when commercial resources were available to meet firefighting needs.

HR 5185, introduced by Mr. Gallegly also of the full Committee, seeks to remove a restriction on the authority of the Secretaries of Agriculture and the Interior to enter into agreements with any federal agency to acquire goods and services directly related to improving or using the wildfire fighting capability of those agencies.

The federal government's aerial firefighting function is more than adequately performed by a cost effective, professional industry within the United States consisting of private sector companies. At present, an excellent working relationship exists between the HAI Government Contracting Committee, HAI members, and the US Forest Service, The Forest Service's National Interagency Fire Center Contracting Unit, and the Office of Aircraft Services Contracting Unit. Protecting lives and the homes and assets of US citizens is of the utmost concern to HAI's government contracting committee members. However, any increase in National Guard aerial firefighting assets and the directing of their use as an initial response resulting from the passage of H.R. 5102 or H. R. 5185 would be in direct competition with private enterprise. Firefighting is not an inherently governmental function, nor a military mission. Current federal policy does not advocate competition between the federal and private sectors. Tax paying entities would be jeopardized by such competition with helicopter operators. The proposed legislation does not fix a system that is broken. Existing law permits federal goods and services to be used whenever, in the judgment of the federal agency head, the resources cannot be provided as conveniently



or cheaply by commercial contract. This legislation does not improve on the existing law.

When tax-funded government agencies enter into business in direct competition with commercial, tax-paying companies, it forces those companies, particularly in the case of small businesses, to reduce the size and scope of their operations, affecting employment and long-term survivability of the businesses. Conversely, government competition expands the size, scope and cost of government taking away the funding of legitimate government functions.

The National Guard components are currently used in an adjunct role during severe wildfire conditions. However, supplying routine National Guard wildland firefighting aerial resources is not an appropriate role for military assets. Wildland firefighters require an identifiable and predictable fleet of aerial firefighting aircraft that are not subject to higher priority tasking. One need only look at the events of September 11th to see that the members of the National Guard may be called to duty elsewhere. In addition, scarce training dollars and assets could be better spent on other missions required by these National Guard units. To be part of an integrated firefighting team, all services of all participants must be available on a predictable and reliable basis.

Aviators involved in wildland firefighting require specialized training and repetitive teaming with the entire firefighting community. Ad hoc participation in this high-risk environment by inexperienced pilots is potentially dangerous and inefficient. The commercial operators that perform this specialized function have done so for over 40 years. According to data provided to HAI by the US Forest Service for the 2002 Fire Season, 554 Type I, II, and III helicopters participated in the "Call When Needed" firefighting program. Exclusive Use Type I and II helicopter contracts with the US Forest Service for 2002 totaled 38. It is US Forest Service policy that military aircraft are only utilized when all reasonably available civilian aircraft are being used with the exception of the National Guard who can be mobilized by the Governors of the individual states to respond to wildfires within the boundaries of their individual states.

The principal mission of the National Interagency Coordination Center at the National Interagency Fire Center (NIFC) is the cost effective and timely coordination of land management agency emergency response for wildland fire. The National Interagency Mobilization Guide identifies standard procedures that guide the operations of multi-agency logistical support activity throughout the coordination system.

HAI strongly believes that this hearing today is an appropriate forum for the US Forest Service to advise Congress of how NIFC conducts business and ensures the deployment of the best-suited ground and air resources to a particular fire. Current procedures are effective in responding to increasing wildland fire requirements, as experienced this fire season. If additional aerial assets are required, a system is already in place to utilize Canadian commercial aircraft. In this 2002 Fire Season none were activated. Congress and the public need to know that the system is not "broken" or encumbered with "outdated" laws. The current NIFC procedures already allow for activation of US Air Force National Guard and Reserve C-130 aircraft. These aircraft are equipped with the Modular Airborne Fire Fighting System (MAFFS) dispensing unit to meet peak periods of wildland firefighting activity when aerial firefighting requirements exceed existing commercial assets. Clear guidelines for the employment of Department Of Defense components to assist in forest and grassland fire emergencies exist. A request for MAFFS is initiated by the National Interagency Fire Center (NIFC) in consultation with the Director of Fire and Aviation Management after determining that all suitable commercial assets are committed to fires, initial attack, or cannot meet the time frame of the region needing assistance.

This is not a protracted, time consuming process. Sufficient lead time exists under current procedures to determine whether resources are "readily available" and mobilize commercial as well as military assets. Less return in mission effectiveness than could be realized using commercially contracted assets sometimes results when the MAFF's units are activated because of the high number of support personnel the military brings on scene. During this fire season, the National Interagency Fire Center has indicated to me that plenty of civilian tankers were available during the Hayman Fire in Colorado and that even if the exemption proposed under HR 5102 and HR 5185 had been in effect, the military would not have automatically been called.

Commercial crews are more effective in a wide range of roles because their primary job is to fight fires. Their aircraft represent a known resource to the government firefighting agencies. Their equipment is the best available and is certified in

accordance with strict federal standards of performance, providing firefighting services at the best value to the government.

The National Interagency Fire Center currently has the tools and statutory authority necessary to assign aerial assets to fight wildfires. Legislation is not required. If an isolated incident occurred wherein there were no commercial assets available and military assets were not called upon, HAI believes that this can be addressed administratively within the NIFC. Our citizens need to know they are receiving effective firefighting services by professional firefighters who have demonstrated beyond a shadow of a doubt their courage and commitment to keep them safe from wildfires. They also need to know that the brave men and women in the Armed Services and National Guard will be available and trained to defend us against all enemies of our country, and not have that essential mission diluted by unneeded tasking. Thank you.

---

Mr. HAYWORTH. We thank you for the testimony.

We move to the question phase and I would defer to my friend from California for his questions.

Mr. GALLEGLY. Thank you very, very much, Mr. Chairman.

Mr. Resavage, I want to preface my remarks by saying that I certainly have no problem with for-profit organizations. It is a part of the American way, it is what keeps our economy going, and I think my record of 16 years here in voting for small business and things to help the small businessman is a public record that I am quite proud of.

You seem to really want to emphasize the fact that your organization is a not-for-profit organization. Is that not correct?

Mr. RESAVAGE. Our organization is a not-for-profit organization.

Mr. GALLEGLY. And your organization represents only individuals that are not-for-profit, or are you paid in your non-profit organization by people that are for-profit?

Mr. RESAVAGE. No, sir. As I stated, we represent operators, manufacturers, and all people involved in the peripheral helicopter industry. So those individuals certainly are making a profit, hopefully.

Mr. GALLEGLY. And they pay your salary and operating costs as a non-profit from for-profit organizations?

Mr. RESAVAGE. That is correct, sir.

Mr. GALLEGLY. And that is your interest and your purpose for lobbying, is that correct?

Mr. RESAVAGE. Our interest is representing our members, yes, sir.

Mr. GALLEGLY. Which are, for all intents and purposes, for-profit. This is just for the record.

Mr. RESAVAGE. Yes, sir.

Mr. GALLEGLY. You tend to be a little deceiving that you are here strictly as a member of a non-profit organization. I just want to set the record straight on that.

Mr. RESAVAGE. Yes, sir.

Mr. GALLEGLY. Thank you very much.

Mr. Hamilton, you made a couple of statements relative to problems that took place this year with the couple tragic accidents. Many of us saw these over and over again on national television where wings were falling off of old—one was an old C-130 in California, San Bernardino, if my memory serves me correctly. As a result of that, it caused a time delay because many airplanes were grounded that might have similar problems. Is that not correct?

Mr. HAMILTON. That is correct, sir.

Mr. GALLEGLY. How would you assess today's fleet of private aircraft as compared to 10 years ago or 1993, for instance? Are they better, are they worse, about the same, or is the fleet just pretty much across the board aging each year?

Mr. HAMILTON. Yes, sir, I would say it is about the same. As you are well aware, it is an aging fleet.

Mr. GALLEGLY. It can't be about the same if the airplanes are 10 years older today than they were then. Or are the airplanes about the same age today and they just move up and—

Mr. HAMILTON. No, sir. What I meant to say was that we are using the same kind of aircraft, but, yes, they are older aircraft.

Mr. GALLEGLY. So, basically, what you have today is the same fleet that you had 10 years ago, only with 10 years more service on them?

Mr. HAMILTON. That is correct.

Mr. GALLEGLY. Would it be safe to say that it is unlikely that the air frames are more stable or even as stable today as they would have been 10 years ago?

Mr. HAMILTON. Well, that is why we are waiting to see what kind of report we are going to get from the investigations that are being done on the aircraft that went down. So we are waiting to see whether that is going to end up being a metal fatigue kind of problem or if there is some other kind of problem.

Mr. GALLEGLY. Across the board, how would you compare today's private fleet of aircraft with the C-130J models with the new MAFFS units that are on line?

Mr. HAMILTON. Well, the C-130Js are a much later model than the C-130As that we had a problem with this year. The difference in aircraft delivery is that the air tankers that we use that are World War II-vintage type aircraft do a better job in coverage and flying in rougher terrain because they drop from their belly, versus a modular airborne firefighting unit that slides into C-130's that have two pipes that come out the end and don't get as good coverage and can't fly in as rough terrain. So there is a difference in the delivery system.

Mr. GALLEGLY. For the record, are you familiar with the new MAFFS unit and the new technology that is in the process of being delivered, at least to 13 units that I know of in the 146?

Mr. HAMILTON. Yes, sir, and that is still being tested.

Mr. GALLEGLY. Is that the unit that are referring to or are you referring to the obsolete MAFFS units that have been used for many years?

Mr. HAMILTON. I was referring to the obsolete units, sir.

Mr. GALLEGLY. OK, but you are aware that we have 13 new units that are in the process of being readied as we speak?

Mr. HAMILTON. Being tested, yes, sir.

Mr. GALLEGLY. Now, would you say that that technology is still inferior to the technology of the belly drops of the World War II DC-3s or whatever you are using?

Mr. HAMILTON. I think that remains to be seen, sir, but some of the preliminary information we have got is since they eject the retardant out the side of the aircraft that there may be some problems when they do drop because it has a tendency to move the tail

of the aircraft to the left or the right. And when you are flying low in the situations that we are, that is a concern.

Mr. GALLEGLY. I think your reference was that you believe that the current flexibility is sufficient to handle all emergencies as it relates to deployment. Are you familiar with the 1993 fire in my district, in Southern California, that went all the way from Ventura to Malibu and destroyed countless homes? Are you familiar with that fire?

Mr. HAMILTON. Yes, sir, I am.

Mr. GALLEGLY. Are you familiar with the fact that we had C-130's sitting on the tarmac watching property burn less than 2 miles from the airport, with the personnel sitting in the cockpits all ready to go and they could not rotate?

Mr. HAMILTON. No, sir, I am not familiar with that.

Mr. GALLEGLY. You are not familiar with that. I would submit to you that I think that would be a very, very good thing to go back and review because it was very frustrating, because it was 24 hours on two different occasions in that week while thousands and thousands of acres burned and communities were destroyed. And we had firefighting equipment sitting on the tarmac ready that could not be deployed because of this, as I referred to, arcane statute. I would appeal to you to go back and review that, and I could cite you other similar incidents.

With that situation taking place, would you say that the flexibility was sufficient, given the bureaucratic foul-up at that time, if, in fact, what I am telling you is correct?

Mr. HAMILTON. Well, I have no reason to doubt that it is absolutely correct, sir. I think the concern is that we need to do a better job of planning and pre-positioning. And using this year's example, which I am very familiar with, we could have probably done a better job of deploying our resources.

But this fire season came very early and we had multiple fires in different geographic areas, and we have a severity funding process where we can actually pre-position aircraft and if we did a better job of predicting where we are going to have problems, then what we would be able to do is have commercial aircraft deployed and that would give us access to military aircraft.

Mr. GALLEGLY. Mr. Chairman, I just have one additional question. Actually, I have many more, but in view of the time, and so on, I would like to submit some questions after this final question for the record to all of the witnesses that we could perhaps make a part of the record for the future.

The issue before us has to do not with competition. The issue before us has to do with the issue of flexibility. Do you not have confidence in the Department of Agriculture and the Department of the Interior in making a decision and having some added flexibility in there in the case of an emergency?

You say need help in pre-positioning, and so on and so forth, and if there was ever a classic example this year of being over-tasked or the demands on everyone being tested to the end of lengths of their ability,—what would be wrong with giving added flexibility so that we don't have the foul-ups of having air tankers, C-130's—in my estimation, very fine firefighting equipment, particularly the J

models with new MAFFS units—sitting on a tarmac as Rome burns and not being able to be deployed?

What would be wrong with having added flexibility so that that situation not be repeated? What would be wrong with that?

Mr. HAMILTON. I don't think there would be anything wrong with that, sir.

Mr. GALLEGLY. That is what this bill is all about, what it represents, and what you testified that you oppose.

Mr. HAMILTON. Well, that is because I think we have the existing capability to do what you describe. We just haven't done it very well or as well as we need to do it.

Mr. GALLEGLY. I think you made my case. Thank you very much.

Mr. HAYWORTH. I thank the gentleman from California for his questions.

The Chair would just address a couple of questions to Mr. Thompson.

Mr. Thompson, it is my understanding that currently you have 18 lead planes. What is the age of those aircraft?

Mr. THOMPSON. Let me have Mr. Williams answer that. I could guess, but I think he could give you a better answer.

Mr. HAYWORTH. That is fine, Tom, and we thank you, Jerry, for coming down today and we appreciate your answer.

Mr. WILLIAMS. They vary in age, but roughly 20 years old.

Mr. HAYWORTH. So the average age is basically 20 years?

Mr. WILLIAMS. That is approximately right.

Mr. HAYWORTH. Do you know when they will be replaced and by what types of aircraft do you expect to have the replacements?

Mr. WILLIAMS. We are not sure yet. Again, we are waiting for the findings of this blue ribbon panel to give us some ideas on what strategic directions we head.

I think it is important in this debate to put some of this in context. The air tankers that we use, 44 altogether—and those are the ones that require lead planes—make up a relatively small portion of the overall aviation force. With 100 exclusive-use helicopters, another 300 “call when needed” helicopters, and 54 single-engine air tankers, the emphasis for us is on rapid initial attack.

Mr. HAYWORTH. I kind of draw an image analogous, although it is perhaps somewhat inaccurate—I think about tugboats pulling and pushing larger ships out, and I think, in a sense, the lead planes basically have to serve that through the wildlife/urban interface there as you are dealing with getting the planes in position to dump the water, to dump the fuel retardant. These things are essential to your operation.

Mr. WILLIAMS. That is correct. With the heavy-capacity air tankers, they are. And, in fact, under some circumstances, not all, but under some circumstances lead planes are required to lead air tankers in.

Mr. HAYWORTH. I know my friend from California said he wanted to put some questions in writing, but I would gladly defer if he has any more at this juncture.

Mr. GALLEGLY. I appreciate the Chairman. I do have one question for Mr. Williams as a result of one of the answers that he gave you, Mr. Chairman.

You say that the aviation fleet on an overall basis would be 20 years or newer, or an average of 20 years?

Mr. WILLIAMS. Speaking directly to lead planes.

Mr. GALLEGLY. Could you tell me, of the two tragedies that we suffered this year, what the age of the aircraft were that went down?

Mr. WILLIAMS. They were much older, but those were not lead planes. They were air tankers, and I believe both of them were something like 50 years.

Mr. GALLEGLY. So the two that we lost with life were approximately 50 years old.

Now, could you explain to me the difference in lead planes and the tankers that went in, because they are still out there flying?

Mr. WILLIAMS. A lead plane is a much smaller aircraft for us. It is a Baron or a King Air. Those are generally in the commercial world two-engine. They would haul six passengers in a commercial world.

Mr. GALLEGLY. But these are not the aircraft that are doing the aerial drops.

Mr. WILLIAMS. No.

Mr. GALLEGLY. What we are talking about here really, principally, are the aircraft that are doing aerial drops.

Mr. WILLIAMS. That is correct.

Mr. GALLEGLY. Now, what would be the average age of the aircraft where we put firefighters in them and go out with whatever the retardant is and do the drops? What is the average age of that aircraft?

Mr. WILLIAMS. I believe that the air tanker fleet, exclusive of smoke-jumper aircraft and all the rest, is somewhere in the neighborhood of 46 years old.

Mr. GALLEGLY. OK, fine, and I think it is important for the record because this is really the aircraft we are talking about here. It is not the lead planes or the spotter planes or the surveillance planes. It is the one where we are putting firefighters in harm's way out protecting life and property.

And you would say for the record that that fleet is not an average of 20, but an average of 45 to 50?

Mr. WILLIAMS. That is correct.

Mr. GALLEGLY. I thank the gentleman.

Thank you, Mr. Chairman.

Mr. HAYWORTH. I thank the gentleman from California and our witnesses today. I think this has been a very useful hearing as we have reviewed these respective pieces of legislation.

As I thank the witnesses on our second panel for their insights, as well as the Members for their questions, we want to again recognize that Members may have some additional questions for the witnesses. Indeed, my friend from California has made that point, and we would ask again that you would please respond to these in writing. Our hearing record will be open for 10 days for those responses.

On behalf of Chairman McInnis and the Subcommittee members, I would like to take this time to thank Meredith Webster, the Subcommittee's Forest Service Fellow, for all her hard work during the past year. Meredith, we wish you well.

I would also like to thank James Swenson, our Subcommittee's intern, for all the work he has done on H.R. 5102 and H.R. 5185. We know he will go on to great future endeavors.

If there is no further business before the Subcommittee, I again thank the panelists and our Subcommittee members, and the Subcommittee is now adjourned.

[Whereupon, at 2 p.m., the Subcommittee was adjourned.]

