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SUGAR LOAF FIRE PROTECTION DISTRICT LAND EXCHANGE ACT

MARCH 2, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 555]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 555) to provide for the exchange of certain land located in the Arapaho-Roosevelt National Forests in the State of Colorado, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sugar Loaf Fire Protection District Land Exchange Act of 2009”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **DISTRICT.**—The term “District” means the Sugar Loaf Fire Protection District of Boulder, Colorado.

(2) **FEDERAL LAND.**—The term “Federal land” means—

(A) the parcel of approximately 1.52 acres of land in the National Forest that is generally depicted on the map numbered 1, entitled “Sugarloaf Fire Protection District Proposed Land Exchange”, and dated November 12, 2009; and

(B) the parcel of approximately 3.56 acres of land in the National Forest that is generally depicted on the map numbered 2, entitled “Sugarloaf Fire Protection District Proposed Land Exchange”, and dated November 12, 2009.

(3) **NATIONAL FOREST.**—The term “National Forest” means the Arapaho-Roosevelt National Forests located in the State of Colorado.

(4) **NON-FEDERAL LAND.**—The term “non-Federal land” means the parcel of approximately 5.17 acres of non-Federal land in unincorporated Boulder County, Colorado, that is generally depicted on the map numbered 3, entitled “Sugarloaf

Fire Protection District Proposed Land Exchange”, and dated November 12, 2009.

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. LAND EXCHANGE.

(a) IN GENERAL.—Subject to the provisions of this Act, if the District offers to convey to the Secretary all right, title, and interest of the District in and to the non-Federal land, and the offer is acceptable to the Secretary—

(1) the Secretary shall accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, the Secretary shall convey to the District all right, title, and interest of the United States in and to the Federal land.

(b) APPLICABLE LAW.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) shall apply to the land exchange authorized under subsection (a), except that—

(1) the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land; and

(2) as a condition of the land exchange under subsection (a), the District shall—

(A) pay each cost relating to any land surveys and appraisals of the Federal land and non-Federal land; and

(B) enter into an agreement with the Secretary that allocates any other administrative costs between the Secretary and the District.

(c) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (a) shall be subject to—

(1) valid existing rights; and

(2) any terms and conditions that the Secretary may require.

(d) TIME FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

(e) AUTHORITY OF SECRETARY TO CONDUCT SALE OF FEDERAL LAND.—

(1) IN GENERAL.—In accordance with paragraph (2), if the land exchange under subsection (a) is not completed by the date that is 1 year after the date of enactment of this Act, the Secretary may offer to sell to the District the Federal land.

(2) VALUE OF FEDERAL LAND.—The Secretary may offer to sell to the District the Federal land for the fair market value of the Federal land.

(f) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—The Secretary shall deposit in the fund established under Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a) any amount received by the Secretary as the result of—

(A) any cash equalization payment made under subsection (b); and

(B) any sale carried out under subsection (e).

(2) USE OF PROCEEDS.—Amounts deposited under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition of land or interests in land in the National Forest.

(g) MANAGEMENT AND STATUS OF ACQUIRED LAND.—The non-Federal land acquired by the Secretary under this section shall be—

(1) added to, and administered as part of, the National Forest; and

(2) managed by the Secretary in accordance with—

(A) the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 480 et seq.); and

(B) any laws (including regulations) applicable to the National Forest.

(h) REVOCATION OF ORDERS; WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public order withdrawing the Federal land from entry, appropriation, or disposal under the public land laws is revoked to the extent necessary to permit the conveyance of the Federal land to the District.

(2) WITHDRAWAL.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn until the date of the conveyance of the Federal land to the District.

PURPOSE

The purpose of S. 555 is to provide for the exchange or sale of certain land located in the Arapaho-Roosevelt National Forests in the State of Colorado.

BACKGROUND AND NEED

The Sugar Loaf Fire Protection District (“District”) owns two fire stations located on separate parcels totaling approximately 5 acres of Federal land in the Arapaho-Roosevelt National Forest. The stations were constructed pursuant to special use permits originally issued decades ago, but they are not presently in compliance with those permits. The District would like to acquire the Federal land to facilitate an expansion of its facilities and increase the flexibility in its training and other operations on the property. The District has proposed exchanging an approximately 5-acre inholding that it owns in the national forest for the approximately 5 acres of land on which its fire stations are located. S. 555 would facilitate that exchange and, as an alternative, authorize the Secretary of Agriculture to sell the Federal land to the District for fair market value.

LEGISLATIVE HISTORY

S. 555 was introduced by Senators Udall and Bennet of Colorado on March 10, 2009. The Subcommittee on Public Lands and Forests held a hearing on the bill on October 29, 2009. At its business meeting on December 16, 2009, the Committee on Energy and Natural Resources ordered S. 555 favorably reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass S. 555, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 555, the Committee adopted an amendment in the nature of a substitute. The substitute includes a number of clarifying and simplifying amendments and addresses a number of concerns raised by the Administration. The substitute amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Sections 1 and 2 provide the short title and definitions for the bill.

Section 3(a)–(d) provides for the conveyance of approximately 5.08 acres of National Forest land to the District in exchange for approximately 5.17 acres of non-Federal land within the National Forests that currently are owned by the District. The exchange shall be carried out in accordance with section 206 of the Federal Land Policy and Management Act, except that the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land.

Subsection (e) authorizes the Secretary to sell the Federal land to the District for fair market value if an exchange is not completed within 1 year after the date of enactment of the bill.

Subsections (f), (g) and (h) provide for the disposition of any proceeds by the Secretary resulting from the exchange or sale of the

Federal land, the incorporation and management of any land received by the Secretary, and the revocation and imposition of withdrawals for the Federal land and non-Federal land, respectively.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 555—Sugar Loaf Fire Protection District Land Exchange Act of 2009

S. 555 would authorize the exchange of about five acres of federal land for a similar amount of acreage owned by the Sugar Loaf Fire Protection District of Boulder, Colorado. If the land exchange does not occur within one year, the federal land could be sold to the district and the proceeds could be spent without further appropriation. Based on information provided by the Forest Service, which administers the federal land to be conveyed, CBO estimates that implementing the bill would have no effect on the federal budget. The federal land that would be affected by the bill could be disposed of (by either of the methods authorized by S. 555) under existing law. Enacting the bill would not affect direct spending or revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The land conveyance authorized in the bill would benefit the fire protection district. Any costs to the district would be incurred voluntarily.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 555.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 555, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 555, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The views of the Administration were included in testimony received by the Committee at a hearing on S. 555 on October 29, 2009, which is printed below.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL
FOREST SYSTEM, DEPARTMENT OF AGRICULTURE

Mr. Chairman, Ranking Member Barrasso, and Members of the Subcommittee, I appreciate the opportunity to appear before you today to provide the Department's views on S. 555, regarding the exchange of certain lands in the Arapaho National Forest.

S. 555 would provide for the exchange or sale of two federal parcels within the boundaries of the Arapaho National Forest in Colorado to the Sugar Loaf Fire Protection District (SLFPD). A portion of one parcel is under special-use permit for a fire station. The other was under a similar permit that has expired. The bill allows the SLFPD to make modifications to the permitted area in the interim period between enactment and conveyance without further authorization by the Secretary of Agriculture.

The Department supports S. 555, but would like to work with bill sponsors and the Committee on some minor modifications to the bill. The Department supports the work of the SLFPD and its efforts to improve facilities to more effectively deliver services. The federal lands proposed for conveyance have lost their national forest character due to past permitted activities and are better suited to private ownership. The lands proposed for conveyance to the United States have suitable national forest character and could contribute to increased management efficiency.

However, we are concerned that the 120-day timeline is not adequate to ensure compliance with all statutory requirements, including National Environmental Policy Act, the Endangered Species Act, the Antiquities Act of 1906, and myriad other laws requiring compliance prior to conveyance of federal lands. We suggest that a year is a realistic timeframe to complete all requirements.

The Department does not support the provisions of Sec. 4(e), which allow the SLFPD to modify the fire stations located on federal lands during the period between enactment of the Act and completion of the land exchange without any additional authorization from the Department. We are confident that given a reasonable timeframe for completion of a 131 conveyance, the Forest Service can work with the SLFPD to accommodate any confirmed construction plans, negating the need for this provision.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I am happy to answer any questions that you or Members of the Committee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 555, as ordered reported.