

Union Calendar No. 416

105TH CONGRESS
2^D SESSION

H. R. 3381

[Report No. 105-723, Part I]

A BILL

To direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co.

SEPTEMBER 16, 1998

Reported from the Committee on Resources with amendments

SEPTEMBER 16, 1998

Referral to the Committee on Agriculture extended for a period ending not later than September 16, 1998

SEPTEMBER 16, 1998

Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1998

Mr. HILL introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 16, 1998

Reported from the Committee on Resources with amendments
[Strike out all after the enacting clause and insert the part printed in *italic*]

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[For text of introduced bill, see copy of bill as introduced on March 5, 1998]

A BILL

To direct the Secretary of Agriculture and the Secretary

of the Interior to exchange land and other assets with Big Sky Lumber Co.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Gallatin Land Consoli-*
5 *ation Act of 1998”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds that—*

8 *(1) the land north of Yellowstone National Park*
9 *possesses outstanding natural characteristics and*
10 *wildlife habitats that make the land a valuable addi-*
11 *tion to the National Forest System;*

12 *(2) it is in the interest of the United States to*
13 *establish a logical and effective ownership pattern for*
14 *the Gallatin National Forest, reducing long-term costs*
15 *for taxpayers and increasing and improving public*
16 *access to the forest;*

17 *(3) it is in the interest of the United States for*
18 *the Secretary of Agriculture to enter into an Option*
19 *Agreement for the acquisition of land owned by Big*
20 *Sky Lumber Co. to accomplish the purposes of this*
21 *Act;*

22 *(4) other private property owners are willing to*
23 *enter into exchanges that further improve the owner-*
24 *ship pattern of the Gallatin National Forest; and*

1 (5) *BSL, acting in good faith, has shouldered*
2 *many aspects of the financial burden of the appraisal*
3 *and subsequent option and exchange process.*

4 **SEC. 3. DEFINITIONS.**

5 *In this Act:*

6 (1) *BLM LAND.*—*The term “BLM land” means*
7 *approximately 2,000 acres of Bureau of Land Man-*
8 *agement land (including all appurtenances to the*
9 *land) that is proposed to be acquired by BSL, as de-*
10 *scribed in Exhibit B to the Option Agreement.*

11 (2) *BSL.*—*The term “BSL” means Big Sky*
12 *Lumber Co., an Oregon joint venture, and its succes-*
13 *sors and assigns, and any other entities having a*
14 *property interest in the BSL land.*

15 (3) *BSL LAND.*—*The term “BSL land” means*
16 *approximately 54,000 acres of land (including all ap-*
17 *purtenances to the land except as provided in section*
18 *4(e)(1)(D)(i)) owned by BSL that is proposed to be*
19 *acquired by the Secretary of Agriculture, as depicted*
20 *in Exhibit A to the Option Agreement.*

21 (4) *EASTSIDE NATIONAL FORESTS.*—*The term*
22 *“Eastside National Forests” means national forests*
23 *east of the Continental Divide in the State of Mon-*
24 *tana, including the Beaverhead National Forest,*
25 *Deerlodge National Forest, Helena National Forest,*

1 *Custer National Forest, and Lewis and Clark Na-*
2 *tional Forest.*

3 (5) *NATIONAL FOREST SYSTEM LAND.*—*The term*
4 *“National Forest System land” means approximately*
5 *29,000 acres of land (including all appurtenances to*
6 *the land) owned by the United States in the Gallatin*
7 *National Forest, Flathead National Forest, Deerlodge*
8 *National Forest, Helena National Forest, Lolo Na-*
9 *tional Forest, and Lewis and Clark National Forest*
10 *that is proposed to be acquired by BSL, as depicted*
11 *in Exhibit B to the Option Agreement.*

12 (6) *OPTION AGREEMENT.*—*The term “Option*
13 *Agreement” means—*

14 (A) *the document signed by BSL, dated*
15 *July 29, 1998, and entitled “Option Agreement*
16 *for the Acquisition of Big Sky Lumber Co.*
17 *Lands Pursuant to the Gallatin Range Consoli-*
18 *dation and Protection Act of 1993”;*

19 (B) *the exhibits and maps attached to the*
20 *document described in subparagraph (A); and*

21 (C) *a negotiated agreement to be entered*
22 *into between the Secretary and BSL and made*
23 *part of the document described in subparagraph*
24 (A).

1 (7) *SECRETARY.*—The “Secretary” means the
2 *Secretary of Agriculture.*

3 **SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.**

4 (a) *IN GENERAL.*—Notwithstanding any other provi-
5 sion of law, and subject to the terms and conditions of the
6 *Option Agreement*—

7 (1) *if BSL offers title acceptable to the Secretary*
8 *to the BSL land*—

9 (A) *the Secretary shall accept a warranty*
10 *deed to the BSL land and a quit claim deed to*
11 *agreed to mineral interests in the BSL land;*

12 (B) *the Secretary shall convey to BSL, sub-*
13 *ject to valid existing rights and to other terms,*
14 *conditions, reservations, and exceptions as may*
15 *be agreed to by the Secretary and BSL, fee title*
16 *to the National Forest System land; and*

17 (C) *the Secretary of the Interior shall con-*
18 *vey to BSL, by patent or otherwise, subject to*
19 *valid existing rights and other terms, conditions,*
20 *reservations, and exceptions as may be agreed to*
21 *by the Secretary of the Interior and BSL, fee*
22 *title to the BLM land;*

23 (2) *if BSL places title in escrow acceptable to*
24 *the Secretary to 11½ sections of the BSL land in the*

1 *Taylor Fork area as set forth in the Option Agree-*
2 *ment—*

3 *(A) the Secretary shall place Federal land*
4 *in the Bangtail and Doe Creek areas of the Gal-*
5 *latin National Forest, as identified in the Op-*
6 *tion Agreement, in escrow pending conveyance to*
7 *the Secretary of the Taylor Fork land, as identi-*
8 *fied in the Option Agreement in escrow;*

9 *(B) the Secretary, subject to the availability*
10 *of funds, shall purchase 7¹/₂ sections of BSL land*
11 *in the Taylor Fork area held in escrow and iden-*
12 *tified in the Option Agreement at a purchase*
13 *price of \$4,150,000 plus interest at a rate accept-*
14 *able to the Secretary; and*

15 *(C) the Secretary shall acquire the 4 Taylor*
16 *Fork sections identified in the Option Agreement*
17 *remaining in escrow, and any of the 6 sections*
18 *referred to in subparagraph (B) for which funds*
19 *are not available, by providing BSL with timber*
20 *sale receipts from timber sales on the Gallatin*
21 *National Forest and other eastside national for-*
22 *ests in the State of Montana in accordance with*
23 *subsection (c); and*

24 *(3)(A) as funds or timber sale receipts are re-*
25 *ceived by BSL—*

1 (i) the deeds to an equivalent value of BSL
2 Taylor Fork land held in escrow shall be released
3 and conveyed to the Secretary; and

4 (ii) the escrow of deeds to an equivalent
5 value of Federal land shall be released to the Sec-
6 retary in accordance with the terms of the Op-
7 tion Agreement; or

8 (B) if funds or timber sale receipts are not pro-
9 vided to BSL as provided in the Option Agreement,
10 BSL shall be entitled to receive patents and deeds to
11 an equivalent value of the Federal land held in es-
12 crow.

13 (b) VALUATION.—

14 (1) IN GENERAL.—The property and other assets
15 exchanged or conveyed by BSL and the United States
16 under subsection (a) shall be approximately equal in
17 value, as determined by the Secretary.

18 (2) DIFFERENCE IN VALUE.—To the extent that
19 the property and other assets exchanged or conveyed
20 by BSL or the United States under subsection (a) are
21 not approximately equal in value, as determined by
22 the Secretary, the values shall be equalized in accord-
23 ance with methods identified in the Option Agree-
24 ment.

25 (c) TIMBER SALE PROGRAM.—

1 (1) *IN GENERAL.*—*The Secretary shall imple-*
2 *ment a timber sale program, according to the terms*
3 *and conditions identified in the Option Agreement*
4 *and subject to compliance with applicable environ-*
5 *mental laws, judicial decisions, and acts beyond the*
6 *control of the Secretary, to generate sufficient timber*
7 *receipts to purchase the portions of the BSL land in*
8 *Taylor Fork identified in the Option Agreement.*

9 (2) *IMPLEMENTATION.*—*In implementing the*
10 *timber sale program—*

11 (A) *the Secretary shall provide BSL with a*
12 *proposed annual schedule of timber sales;*

13 (B) *as set forth in the Option Agreement,*
14 *receipts generated from the timber sale program*
15 *shall be deposited by the Secretary in a special*
16 *account established by the Secretary and paid by*
17 *the Secretary to BSL;*

18 (C) *receipts from the Gallatin National*
19 *Forest shall not be subject to the Act of May 23,*
20 *1908 (16 U.S.C. 500); and*

21 (D) *the Secretary shall fund the timber sale*
22 *program at levels determined by the Secretary to*
23 *be commensurate with the preparation and ad-*
24 *ministration of the identified timber sale pro-*
25 *gram.*

1 (d) *RIGHTS-OF-WAY.*—*As specified in the Option*
2 *Agreement—*

3 (1) *the Secretary, under the authority of the Fed-*
4 *eral Land Policy and Management Act of 1976 (43*
5 *U.S.C. 1701 et seq.), shall convey to BSL such ease-*
6 *ments in or other rights-of-way over National Forest*
7 *System land for access to the land acquired by BSL*
8 *under this Act for all lawful purposes; and*

9 (2) *BSL shall convey to the United States such*
10 *easements in or other rights-of-way over land owned*
11 *by BSL for all lawful purposes, as may be agreed to*
12 *by the Secretary and BSL.*

13 (e) *QUALITY OF TITLE.*—

14 (1) *DETERMINATION.*—*The Secretary shall re-*
15 *view the title for the BSL land described in subsection*
16 *(a) and, within 45 days after receipt of all applicable*
17 *title documents from BSL, determine whether—*

18 (A) *the applicable title standards for Fed-*
19 *eral land acquisition have been satisfied and the*
20 *quality of the title is otherwise acceptable to the*
21 *Secretary of Agriculture;*

22 (B) *all draft conveyances and closing docu-*
23 *ments have been received and approved;*

1 (C) a current title commitment verifying
2 compliance with applicable title standards has
3 been issued to the Secretary; and

4 (D) the title includes both the surface and
5 subsurface estates without reservation or excep-
6 tion (except as specifically provided in this Act),
7 including—

8 (i) minerals, mineral rights, and min-
9 eral interests (including severed oil and gas
10 surface rights), subject to and excepting
11 other outstanding or reserved oil and gas
12 rights;

13 (ii) timber, timber rights, and timber
14 interests (except those reserved subject to
15 section 251.14 of title 36, Code of Federal
16 Regulations, by BSL and agreed to by the
17 Secretary);

18 (iii) water, water rights, ditch, and
19 ditch rights;

20 (iv) geothermal rights; and

21 (v) any other interest in the property.

22 (2) CONVEYANCE OF TITLE.—

23 (A) IN GENERAL.—If the quality of title
24 does not meet Federal standards or is otherwise
25 determined to be unacceptable to the Secretary of

1 *Agriculture, the Secretary shall advise BSL re-*
2 *garding corrective actions necessary to make an*
3 *affirmative determination under paragraph (1).*

4 *(B) TITLE TO SUBSURFACE ESTATE.—Title*
5 *to the subsurface estate shall be conveyed by BSL*
6 *to the Secretary in the same form and content as*
7 *that estate is received by BSL from Burlington*
8 *Resources Oil & Gas Company Inc. and Glacier*
9 *Park Company.*

10 *(f) TIMING OF IMPLEMENTATION.—*

11 *(1) LAND-FOR-LAND EXCHANGE.—The Secretary*
12 *shall accept the conveyance of land described in sub-*
13 *section (a) not later than 45 days after the Secretary*
14 *has made an affirmative determination of quality of*
15 *title.*

16 *(2) LAND-FOR-TIMBER SALE RECEIPT EX-*
17 *CHANGE.—As provided in subsection (c) and the Op-*
18 *tion Agreement, the Secretary shall make timber re-*
19 *ceipts described in subsection (a)(3) available not*
20 *later than December 31 of the fifth full calendar year*
21 *that begins after the date of enactment of this Act.*

22 *(3) PURCHASE.—The Secretary shall complete*
23 *the purchase of BSL land under subsection (a)(2)(B)*
24 *not later than 30 days after the date on which funds*
25 *are made available for such purchase and an affirma-*

1 *tive determination of quality of title is made with re-*
2 *spect to the BSL land.*

3 **SEC. 5. OTHER FACILITATED EXCHANGES.**

4 *(a) AUTHORIZED EXCHANGES.—*

5 *(1) IN GENERAL.—The Secretary shall enter into*
6 *the following land exchanges if the landowners are*
7 *willing:*

8 *(A) Wapiti land exchange, as outlined in*
9 *the documents entitled “Non-Federal Lands in*
10 *Facilitated Exchanges” and “Federal Lands in*
11 *Facilitated Exchanges” and dated July 1998.*

12 *(B) Eightmile/West Pine land exchange as*
13 *outlined in the documents entitled “Non-Federal*
14 *Lands in Facilitated Exchanges” and “Federal*
15 *Lands in Facilitated Exchanges” and dated July*
16 *1998.*

17 *(2) EQUAL VALUE.—Before entering into an ex-*
18 *change under paragraph (1), the Secretary shall de-*
19 *termine that the parcels of land to be exchanged are*
20 *of approximately equal value, based on an appraisal.*

21 *(b) SECTION 1 OF THE TAYLOR FORK LAND.—*

22 *(1) IN GENERAL.—The Secretary is encouraged*
23 *to pursue a land exchange with the owner of section*
24 *1 of the Taylor Fork land after completing a full pub-*
25 *lic process and an appraisal.*

1 (2) *REPORT.*—*The Secretary shall report to Con-*
2 *gress on the implementation of paragraph (1) not*
3 *later than 180 days after the date of enactment of this*
4 *Act.*

5 **SEC. 6. GENERAL PROVISIONS.**

6 (a) *MINOR CORRECTIONS.*—

7 (1) *IN GENERAL.*—*The Option Agreement shall*
8 *be subject to such minor corrections and supplemental*
9 *provisions as may be agreed to by the Secretary and*
10 *BSL.*

11 (2) *NOTIFICATION.*—*The Secretary shall notify*
12 *the Committee on Energy and Natural Resources of*
13 *the Senate, the Committee on Resources of the House*
14 *of Representatives, and each member of the Montana*
15 *congressional delegation of any changes made under*
16 *this subsection.*

17 (3) *BOUNDARY ADJUSTMENT.*—

18 (A) *IN GENERAL.*—*The boundary of the*
19 *Gallatin National Forest is adjusted in the*
20 *Wineglass and North Bridger area, as described*
21 *on maps dated July 1998, upon completion of*
22 *the conveyances.*

23 (B) *NO LIMITATION.*—*Nothing in this sub-*
24 *section limits the authority of the Secretary to*
25 *adjust the boundary pursuant to section 11 of*

1 *the Act of March 1, 1911 (commonly known as*
2 *the “Weeks Act”) (16 U.S.C. 521).*

3 (C) *ALLOCATION OF LAND AND WATER CON-*
4 *SERVATION FUND MONEYS.—For the purposes of*
5 *section 7 of the Land and Water Conservation*
6 *Fund Act of 1965 (16 U.S.C. 460l–9), bound-*
7 *aries of the Gallatin National Forest shall be*
8 *considered to be the boundaries of the National*
9 *Forest as of January 1, 1965.*

10 (b) *PUBLIC AVAILABILITY.—The Option Agreement—*

11 (1) *shall be on file and available for public in-*
12 *spection in the office of the Supervisor of the Gallatin*
13 *National Forest; and*

14 (2) *shall be filed with the county clerk of each of*
15 *Gallatin County, Park County, Madison County,*
16 *Granite County, Broadwater County, Meagher Coun-*
17 *ty, Flathead County, and Missoula County, Montana.*

18 (c) *COMPLIANCE WITH OPTION AGREEMENT.—The*
19 *Secretary, the Secretary of the Interior, and BSL shall com-*
20 *ply with the terms and conditions of the Option Agreement*
21 *except to the extent that any provision of the Option Agree-*
22 *ment conflicts with this Act.*

23 (d) *CONVEYANCE OF TIMBER.—After completion of the*
24 *land-for-land exchange under section 4(a)(1), the Secretary*

1 shall convey to BSL 1,000,000 board feet of timber from
2 roaded land in the Gallatin National Forest, which—

3 (1) shall be treated as reserved timber under sec-
4 tion 251.14 of title 36, Code of Federal Regulations;
5 and

6 (2) shall not be considered as part of the ap-
7 praisal value of land exchanged under this Act.

8 (e) *STATUS OF LAND.*—All land conveyed to the
9 United States under this Act shall be added to and adminis-
10 tered as part of the Gallatin National Forest and Deerlodge
11 National Forest, as appropriate, in accordance with the Act
12 of March 1, 1911 (5 U.S.C. 515 et seq.), and other laws
13 (including regulations) pertaining to the National Forest
14 System.

15 (f) *MANAGEMENT.*—

16 (1) *PUBLIC PROCESS.*—Not later than 30 days
17 after the date of completion of the land-for-land ex-
18 change under section 4(f)(1), the Secretary shall initi-
19 ate a public process to amend the Gallatin National
20 Forest Plan and the Deerlodge National Forest Plan
21 to integrate the acquired land into the plans.

22 (2) *PROCESS TIME.*—The amendment process
23 under paragraph (1) shall be completed as soon as
24 practicable, and in no event later than 540 days after
25 the date on which the amendment process is initiated.

1 (3) *LIMITATION.*—*An amended management*
2 *plan shall not permit surface occupancy on the ac-*
3 *quired land for access to reserved or outstanding oil*
4 *and gas rights or for exploration or development of oil*
5 *and gas.*

6 (4) *INTERIM MANAGEMENT.*—*Pending completion*
7 *of the forest plan amendment process under para-*
8 *graph (1), the Secretary shall—*

9 (A) *manage the acquired land under the*
10 *standards and guidelines in the applicable land*
11 *and resource management plans for adjacent*
12 *land managed by the Forest Service; and*

13 (B) *maintain all existing public access to*
14 *the acquired land.*

15 (g) *RESTORATION.*—

16 (1) *IN GENERAL.*—*The Secretary shall imple-*
17 *ment a restoration program including reforestation*
18 *and watershed enhancements to bring the acquired*
19 *land and surrounding national forest land into com-*
20 *pliance with Forest Service standards and guidelines.*

21 (2) *STATE AND LOCAL CONSERVATION CORPS.*—
22 *In implementing the restoration program, the Sec-*
23 *retary shall, when practicable, use partnerships with*
24 *State and local conservation corps, including the*

1 *Montana Conservation Corps, under the Public Lands*
2 *Corps Act of 1993 (16 U.S.C. 1721 et seq.).*

3 *(h) IMPLEMENTATION.—The Secretary of Agriculture*
4 *shall ensure that sufficient funds are made available to the*
5 *Gallatin National Forest to carry out this Act.*

6 *(i) REVOCATIONS.—Notwithstanding any other provi-*
7 *sion of law, any public orders withdrawing lands identified*
8 *in the Option Agreement from all forms of appropriation*
9 *under the public land laws are revoked upon conveyance*
10 *of the lands by the Secretary.*

11 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

12 *There are authorized to be appropriated such sums as*
13 *are necessary to carry out this Act.*

Amend the title so as to read: “A bill to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.”.